

THIRD COUNTRY CASES: REFERRING AND HANDLING

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1. Introduction

1.1 Purpose of Instruction

This instruction is intended to detail the responsibilities of referring officers/units in the identification of third country cases and the process by which such cases are referred to the Third Country Unit (TCU) and how these cases are detained, managed and removed in liaison with TCU.

Some processes within this instruction are specific to the port, LIT/LEO, ASU or case owner and where this occurs the specific unit will be mentioned. If the process to follow is the same for all units then no specific unit will be mentioned.

This instruction is not intended for the use of those within TCU. Detailed guidance for TCU colleagues can be found in the [TCU Manual \[currently under development\]](#).

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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. Section 55 defines a child as anyone under the age of 18.

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 Use of Terms

Within this instruction, the term:

“**Case Owner**” refers to case owners or caseworkers within the Regional Asylum Teams, Detained Fast–Track (DFT), Criminal Casework Directorate (CCD), Third Country Unit (TCU), the Case Resolution Directorate (CRD), or any other officer holding responsibility for considering and dealing with asylum applications in any other area.

“**Senior Caseworker**” applies to SEO senior caseworkers within the regional teams, DFT and CRD (not HEO technical specialists).

“**applicant**”, “**individual**”, “**person**” and “**subject**” are all interchangeable terms referring to the asylum seeker.

“**Member State**” means a state participating in the Dublin arrangements (including Eurodac). Currently these are all EU Member States plus Norway and Iceland.

An explanation of terms and abbreviations specific to this instruction are explained in the [Glossary](#).

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2. Background

2.1 Dublin Arrangements

TCU considers two broad categories of asylum cases. The vast majority of cases fall under the Dublin II Regulation. However, some are third country removals which fall outside of this Regulation (see [‘2.1.1 Dublin Convention and Dublin II Regulation’](#), [‘2.3 Non-Asylum Cases’](#) and [‘2.4 Safe Third Country Cases \(Non-Dublin Arrangements\)’](#)).

The aim of the Dublin II Regulation, and its predecessor the Dublin Convention, is to avoid the successive transfer of applicants between Member States without any single state taking responsibility for determining the claim and the prevention of multiple parallel or successive claims in different Member States and related secondary movements (“asylum shopping”). In order to achieve these aims the Dublin arrangements contain a number of specific criteria in descending order of importance used to identify the responsible Member State, enabling the transfer of an asylum seeker once responsibility has been agreed.

2.1.1 Dublin Convention and Dublin II Regulation

The provisions of the Dublin Convention were effective from September 1997 until they were replaced in September 2003 by the Dublin II Regulations. There will be some legacy cases in the system that will still reside under the Dublin Convention, e.g. where the transfer of an applicant was agreed prior to September 2003 under the Convention but could not be implemented immediately. In these rare cases, officers must contact TCU.

The Dublin II Regulation is now the basis for determining responsibility for third country cases. Like the Dublin Convention, the Dublin II Regulation has established a set of hierarchical criteria for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a national of a country outside the Member States.

For further information on the Dublin Convention and the Dublin II Regulation, refer to the [Dublin II Regulations](#) in full or to the [TCU Manual \[currently under construction\]](#).

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2.2 Eurodac

The Eurodac Regulation established a database to store, search and compare fingerprints solely in order to support the application of the Dublin arrangements by identifying those individuals/applicants already known to other Member States. The Eurodac database went live on 15 January 2003. It cannot be accessed for the purposes of criminal law enforcement reasons nor can its data be used to support criminal prosecutions.

All asylum applicants are fingerprinted by ports, ASU and LITs/LEOs using live-scan, card-scan and in some cases wet prints. Fingerprints are then sent to the Immigration Fingerprint Bureau (IFB) which automatically runs a fingerprint check on the Eurodac database.

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2.3 Non-Asylum Cases

Where a subject has been found illegally present in the UK and has not claimed asylum, but there is evidence to suggest they have previously claimed asylum in a Member State, the case must be referred to TCU.

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2.4 Safe Third Country Cases (Non-Dublin Arrangements)

It is possible to return certain asylum applicants to safe third countries outside of the provision of the Dublin arrangements. Such applicants are generally returned either to the safe third country of embarkation or, more rarely, to another safe third country if clear evidence exists that the applicant would be admitted to that state, as provided for by Paragraph 345 of the Immigration Rules. Examples of countries to which such returns have taken place are the United States of America, Canada and Switzerland. There are no binding agreements between these countries akin to the Dublin arrangements and at present all decisions whether to apply the safe third country provisions in paragraph 345 of the Rules are considered on a case by case basis.

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3. Case Owner Action – Checking for Third Country Cases

There are a few important checks which must be taken by non-TCU case owners in regional asylum teams, CRD, etc., before making a substantive decision on a case. These actions are important, as they support the third country process.

3.1 Do TCU Already Have an Interest?

Case owners must check CID to see whether there is TCU interest in the case. Any cases accepted as potential third country cases are recorded by TCU as “Third Country case – EURODAC Dublin II Regulation” or “Third Country case – Definite Dublin II Regulation” for visa/residency/verbal admission of asylum claim in a Member State (pre-EURODAC fingerprint match).

If TCU have registered an interest in a case or if a EURODAC hit has been notified, the case owner must follow the guidance in [‘4.3 Ports, ASU, LITs/LEOs and Case Owners Referring Actions’](#).

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3.2 Has the Applicant Been Fingerprinted?

Every applicant for asylum must be fingerprinted, for domestic reasons and to comply with obligations on the UK under the Eurodac Regulation to promptly take and transmit for storage, sets of fingerprints for asylum applicants of at least 14 years of age.

On receipt of a file the case owner must check if an IFB1 reference number has been recorded on CID under person details. Also, cases handled by an LIT/LEO should have had a note recorded on CID stating that the fingerprints have been added to the Immigration Asylum Fingerprint System (IAFS) and if possible, the date the fingerprints were sent to IFB.

If after checking CID or the case file there is no indication that fingerprints have been taken, the case owner must as a priority arrange for the applicant to be fingerprinted on form IFB1 and the prints to then be sent to IFB immediately. Children under sixteen years of age must be fingerprinted in the presence of a responsible adult, who cannot be a member of the UK Border Agency or a person authorised to take fingerprints. The case owner must not take any further action until the fingerprint results have been confirmed. If there is a Eurodac hit the case owner must refer to [‘4. Referring Cases to TCU’](#).

Please note this applies equally to those cases allocated to the Case Resolution Directorate (CRD).

3.2.1 Delayed EURODAC Actions

In some instances a case is routed to a case owner before transmission of fingerprints to Eurodac or before evidence of a hit from Eurodac is available to TCU. This can be due to the location and availability of fingerprinting equipment, the time of day in which an application was made or issues relating to the quality of the sets of fingerprints taken.

If a EURODAC hit is registered, TCU will contact the case owner responsible. The case owner must then refer to ['4. Referring Cases to TCU'](#).

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4. Referring Cases to TCU

4.1 Ports, ASU and LITs/LEOs Fingerprinting

It is imperative that all officers ensure an applicant is fingerprinted immediately at the point of claim and that the fingerprints are submitted to the Immigration Fingerprint Bureau (IFB) at the earliest opportunity.

Unaccompanied children can be removed under the Dublin II Regulation if they have previously claimed asylum in a safe third country. It is therefore vital that children from the age of 14 are fingerprinted as well as adults and checked on the Eurodac database.

Children from the age of 5 are fingerprinted in the UK but only those from the age of 14 can have their fingerprints transmitted onto the Eurodac database.

If considering the removal of an unaccompanied child refer to ['1.2 Application of this Instruction in Respect of Children and those with Children'](#) and ['7.3 LIT/LEO Action - Removing Unaccompanied Children'](#)

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4.2 TCU Referral Criteria

Any asylum applicant encountered who meets the general criteria below must be referred to TCU, who will consider the criteria fully and determine if the applicant is potentially removable on safe third country grounds.

At least one of the following pieces of evidence must be held:

- A Eurodac hit (matched fingerprints) showing that the applicant illegally entered or claimed asylum in another Member State;
- A visa or residence permit issued by another Member State or non-Dublin state;
- Other documentary evidence of residence in another Member State such as correspondence, bills or wage slips etc., (for non-Dublin countries this type of evidence is not sufficient);
- Credible statements and details from the applicant that they have been living (legally/illegally) in the territory of another Member State;
- Statements from the applicant that members of their immediate family or other relatives are present in another Member State and their details, including their status (if known).

Officers dealing with a case that does not fall under the Dublin II Regulation (i.e. Dublin Convention or a non-Dublin country (such as a port arrival direct from a third country)), must contact TCU who will advise if any further action is appropriate.

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4.3 Ports, ASU, LITs/LEOs and Case Owners - Referring Actions

If a potential third country case is identified it must be referred immediately to TCU (as time is a critical factor for all cases with the potential to be treated on safe third country grounds whether or not they fall within the Dublin arrangements). However, if the actions and documents required below are not followed and provided, TCU will not accept the case.

Action:

- Telephone TCU to outline the referral;
- Fax the appropriate documents (directly below) to TCU:
 - The Eurodac hit or the evidence relating to links with the third country;
 - The Travel History Interview Record (ASL.3766);
 - The Asylum Screening Interview Record (ASL.3211);
 - The Family Welfare Form (ICD.3629) (for cases involving children).

On receipt of the required documents, TCU will promptly decide whether to accept the case for third country action and aim to respond to the referrer within 24 hours. TCU will also then decide whether detention is appropriate.

4.3.1 Asylum Screening Interview and Travel History Interview Record

TCU will be particularly interested in responses relating to the travel route, including periods of time unaccounted for, family details in the UK and in other countries/Member States, marital status and any previous asylum claim in other Member States. The credibility of these responses should therefore be tested robustly and probed as the information gathered will be passed on to Member States, potentially contributing significantly towards the success of the case. It is also important that the chronology of events since the applicant left their country of origin or another Member State is as complete as possible. Member States will request that unexplained periods of time in excess of three months are accounted for, before accepting responsibility, due to the provisions in the Dublin Regulation concerning cessation of responsibility.

It is important to note that the screening interview and the travel history interview is not an exercise to gather substantive detail regarding an asylum claim. For further information on conducting screening interviews see the *Asylum Screening Best Practice* web site.

4.3.2 Case Owner Action – Screening and Travel History Interviews

Where a screening interview and travel history interview have not been completed for a case of interest to TCU, the case owner must conduct both at the time of the First Reporting Event (FRE). If the case owner is unable to conduct them at the FRE, they must arrange for them to be done as soon as possible and then fax a copy of the interview records to TCU. Once the interviews have been faxed to TCU they will decide immediately whether the case is a definite runner and if so take on full management of the case from the case owner.

4.3.3 Referring a Potential Victim of Trafficking

Potential victims of trafficking (PVOT) who meet any of the criteria detailed under [4.2 TCU Referral Criteria](#) must still be referred to TCU in the normal way.

When making the referral it must be made clear to TCU that the applicant is a PVOT.

If TCU accept the case, they will undertake the Reasonable Grounds decision. However, the LIT/LEO will be responsible for conducting any interview required to assist TCU in their investigations. TCU will outline the key questions and issues to the LIT/LEO who will then build on these key areas at the interview and supply TCU with the interview record.

For further guidance refer to the Trafficking Instruction.

4.3.4 Referring Age Dispute Cases

In line with the instruction *Disputed Age Guidance*, if there is a doubt over the age of an applicant who claims to be a child, the UK Border Agency will treat him or her as a child, unless their physical appearance and/or general demeanour very strongly suggests that they are aged 18 or over, unless there is credible evidence to demonstrate the age claimed.

If the age of an applicant has been disputed and it has been considered that their physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age, they are to be classified as adults and not as age disputes. The mainstream third country processes will apply in such cases.

In all cases where an applicant's age has been *disputed*, the following must also be faxed in addition to the documents stated in '[4. Referring Cases to TCU](#)':

- A completed copy of form IS.97M (note: detention cannot occur if the fourth box is ticked. Detention can only occur if the applicant's appearance very strongly suggests that they are **significantly** over the age of 18 and a CIO is in agreement, and/or if a Merton compliant age assessment has been conducted or if other credible evidence exists);
- A completed copy of Form BP7 (ASL.3596);
- A social services Merton compliant age assessment, or written notification from the social services that the applicant is regarded as an adult following a Merton compliant age assessment. Such assessments will only be applicable in certain cases (for further guidance see the instruction *Disputed Age Guidance*). Not applicable, if the third box is ticked on the IS97M (i.e. physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age).

On receipt of the required documents, TCU will decide whether to accept the case for third country action. TCU will also then decide whether detention is appropriate.

If TCU takes ownership of a case where the applicant has been age disputed and then decides to disagree with a Merton compliant age assessment, this must be approved at SEO level and a written note of why the decision was made on the Port/HO file. For further guidance please see the instruction *Disputed Age Guidance*.

4.3.5 Referring Unaccompanied Children

All documents stated in '[4.3 Ports, ASU, LITs/LEOs and Case Owners Referring Actions](#)' must also be faxed to TCU.

Unaccompanied children should be referred to TCU if they have claimed asylum in a safe third country. If an unaccompanied child has entered a safe third country, e.g. as an illegal entrant, but not applied for asylum they must not be referred to TCU unless there is documentary evidence or statements from the child suggesting that family members or other relatives are present in another Member State. In these cases it may be possible to request that another Member State takes responsibility for examining the child's asylum claim on family unity/humanitarian grounds, if this is in the best interests of the child.

4.3.6 Transferring Case Ownership to TCU

In all cases where TCU has formally accepted a case for third country action, case ownership transfers to TCU. From that point, TCU has full responsibility for the case, and all files and relevant paperwork must be handed over to TCU. Officers must forward the HO case file (if there is one) to TCU via the Interdepartmental Despatch Service (IDS) within 24 hours of TCU accepting the case.

Where a case was originally allocated to an Asylum team, the referring officer in the asylum team must confirm with TCU that they have emailed the Routing Team inbox to advise them of the case's transfer to TCU.

It must be ensured that the applicant's reporting regime is not cancelled when the case is transferred to TCU. If the applicant is moved into TCU initial accommodation then the reporting centre to which they report must be notified so that they can amend the reporting location and setup some initial reporting events.

4.3.7 Referring Questions from Representatives to TCU

Once TCU have taken ownership of a case, they become responsible for responding to all questions and representations from representatives.

If a representative contacts a case owner after the case has been routed to TCU, they must advise the representatives that TCU is now dealing with the case and that they should now liaise with TCU in writing.

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4.4 Damaged Fingerprints

If an applicant has damaged fingerprints which prevent the UK Border Agency from taking a set of fingerprints of appropriate quality for the successful transmission to the Eurodac database, the case must be referred to the Detention Allocation Unit (DAU).

It should be noted that TCU no longer manages applicants with damaged fingerprints.

For further guidance please refer to the instruction *Applicants with Poor Quality Fingerprints*.

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5. Third Country Detained Cases

5.1 Case Owner Action – Detention Paperwork

Once TCU have accepted responsibility for a case they will advise the case owner if the applicant is to be detained or not. If the applicant is to be detained, TCU will notify the case owner of the detention details and when movement of the applicant is likely to take place.

Once the case owner is notified of the applicant's detention they must complete the following actions:

- Minute the file and CID to reflect that TCU have taken responsibility for the case;
- Insert TCU in the 'allocated to' on the asylum and TCU fields on CID;
- Cancel any future asylum events on CID (e.g. reporting, substantive interview);
- Forward file to TCU.

Once detention has been arranged, TCU will conduct a 24 hour detention review and all subsequent reviews.

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5.2 Port, LIT/LEO and ASU Action – Detaining a Third Country Applicant

If TCU determine that detention is appropriate and a TCU bed is available, the encountering unit must complete the following actions:

- If not already completed, conduct a PNC check;
- Complete and serve the IS.151a Part 1 in all illegal entry cases;
- Complete and serve the IS.91/91R/91RA;
- Forward the Port/HO file and all documents to the TCU Detention and Removals Team (DART).

An IO within DART will take responsibility for the case, and will liaise with the Detainee Escorting and Population Management Unit (DEPMU) to arrange the movement of the applicant into a TCU ring-fenced detention bed.

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5.3 LIT/LEO Action - Detained Drop-Ins

TCU will monitor its ring-fenced detention bed allocation closely to ensure that it maintains 100% occupancy as directed by UK Border Agency policy.

To achieve this, on occasion, TCU will require LITs/LEOs to detain existing cases that have been reporting weekly. These will be cases which are suitable for detention but were not originally detained due to a delayed Eurodac hit, the detention estate being full when the referral was made, or due to changes in the progress of the case (e.g. a JR application being concluded). If detaining existing cases officers must ensure it is in accordance with *chapter 55 of the Enforcement Instructions and Guidance (EIG)*.

TCU will notify the LIT/LEO of the planned detained drop-in at least 5 days in advance by faxing form IS.214 and by making a note on the 'calendar events' screen on CID of the need to detain on the next reporting event. TCU will notify LITs/LEOs of the case details and reasons for detaining. TCU will conduct the 24 hour review once the case is in a TCU bed. The LIT/LEO will be responsible for detaining.

Actions:

- Conduct the travel history interview record (ASL.3766);
- Conduct a PNC check;
- Complete and properly serve the IS91/91R/91RA.

An IO within the TCU Detention and Removals Team will take responsibility for the case, and will liaise with DEPMU to arrange the movement of the applicant into a TCU ring-fenced detention bed.

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5.4 LIT/LEO Action - Release from Detention

If a detainee is released from TCU detention the LIT/LEO must complete the necessary actions and paperwork. TCU will then arrange the first reporting event but the reporting centre must then set up weekly reporting for the applicant.

5.4.1 LIT/LEO Action – Potential Victim of Trafficking in Detention

Detention should initially be maintained for those cases where information has come to light to suggest that an applicant is a PVOT. If the Reasonable Grounds decision made by TCU states that the applicant is a victim of trafficking (VOT) then the applicant should be released from detention and an appropriate reporting regime established.

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6. Third Country Non-Detained Cases

6.1 Case Owner Action – Routing the Applicant to London Accommodation

If the applicant is not going to be detained, the case owner must complete the following actions:

- Confirm with TCU that they have asked the Routing Team to arrange for the applicant to be transferred to initial accommodation in London (only if the applicant is already in initial accommodation, see ['6.1.1 Applicant Not in Initial Accommodation'](#));
- Update CID with the applicant's new accommodation details;
- Minute the file and CID to reflect that TCU have taken responsibility for the case;
- Insert TCU in the 'allocated to' on the asylum and TCU fields on CID;
- Inform the applicant of the cancellation of any events (such as the asylum interview if already scheduled);
- Cancel all future reporting events for the old reporting centre on CID;
- Setup three initial reporting events for Croydon Enforcement Unit on CID:
 - Go to the 'Events' section of the screen
 - The 'Restriction type', 'Restriction from date', 'Booked by user' and 'Booked by unit' fields populate automatically (from the 'Restriction' screen)
 - In the 'Event type' field, select 'TA' or 'TR';
 - Click into the 'Centre' field and select 'Croydon Enforcement Unit';
 - Click into the 'Booked for date/time' field and enter the date of the first reporting event (the day after the applicant's transfer to London initial accommodation);
 - Click into the 'Unit Responsible' and enter 'Third Country Unit';
 - Send a revised IS.96 to the applicant's current address and their new initial accommodation address.
- Click on the first new reporting event and under 'Event Status Details' in the 'Comments' box type *"Reporting Centre: Third Country Case, applicant is being transferred to your area, please setup further reporting events according to current regime (usually weekly)"*;

6.1.1 Applicant Not in Initial Accommodation

If the applicant is not in initial accommodation then they should continue to report to the nearest reporting centre and the case owner should update CID to state TCU ownership and inform the applicant of the cancellation of any events such as the asylum interview.

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6.2 LIT/LEO Action – Setting up Reporting

If TCU determine that detention is not appropriate or if no detention beds are available, LITs/LEOs must undertake the actions listed directly below. In these cases, the LIT/LEO will gain the statistic for the removal.

Actions:

- The LIT/LEO should normally place the applicant on weekly reporting, to the reporting centre nearest to their accommodation. Reporting will normally be weekly, as third country cases are progressed quickly and contact must be maintained with the applicant ready for removal directions to be served as soon as the requested Member State has accepted the transfer of the applicant. However, before setting a reporting regime the LIT/LEO should refer to the Reporting instruction and consider whether a different reporting regime would be more appropriate in the particular case. If the LIT/LEO is minded to set a reporting regime other than weekly reporting, this must be discussed with TCU;
- Manage the applicant's reporting;
- Take prompt absconder action if the applicant fails to report.

6.2.1 LIT/LEO Action – Third Country Adult Absconders

TCU requires formal notification from the LIT/LEO in order to notify the Member State (as TCU will receive an extension in which to remove an applicant to the Member State). Without formal notification that an applicant has absconded TCU might miss a case deadline and therefore the UK would have to substantively consider the case in the UK.

LITs/LEOs must undertake absconder action if a third country applicant fails to report (see the instruction *Failure to Report and Absconders*). They must then fax a completed IS.274 to TCU notifying them that an applicant has formally absconded.

If the applicant is located then TCU must also be notified.

6.2.2 LIT/LEO Action – Third Country Unaccompanied Child Absconders

As soon as an LIT/LEO becomes aware that a child has absconded it must follow the actions detailed in section 6 of the *Failure to Report and Absconders* instruction.

In addition to these actions the LIT/LEO must contact the TCU Children's Team to notify them that the child has absconded and to confirm that appropriate action (according to the instruction above) has been taken.

Refer to section [1.2 Application of this Instruction in Respect of Children and those with Children.](#)

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6.3 LIT/LEO Action – Applicant Claims to be a Victim of Trafficking

If it comes to light that an applicant is a PVOT, the LIT/LEO must fax a referral to TCU.

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7. Removing Third Country Cases

7.1 Removing Detained Cases

For all applicants detained in a TCU bed, DART will arrange all aspects of the removal.

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7.2 LIT/LEO Action - Removing Non-Detained Cases

The LIT/LEO will be sent a starring pro-forma by TCU notifying them when the case is removable and of any other key requirements.

Actions:

- Serve the applicant's certificate (IS.240), a copy of the acceptance letter issued by the Member State and all other standard removal documents such as the IS.87 (non-UK) appeal papers and the factual summary (which must be updated by the LIT/LEO);
- Set removal directions according to standard procedures (for further guidance refer to *Chapter 51 of the Enforcement Instructions and Guidance*), also complying with the following points:
 - Removal directions must be set ensuring that 3 clear working days are given between the removal and serving the certificate and the RDs;
 - The removal must not take place over a weekend;
 - The removal must be set so that the applicant arrives in the Member State before 2pm (in the receiving country);
 - The removal must not take place on dates which are public holidays in the Member State;
 - Update the 'Removal' screen on CID;
 - Notify the TCU Non-Detained team by email to confirm the applicant has been removed.

If an LIT/LEO is unsure of the procedures listed above they should contact TCU.

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7.3 LIT/LEO Action - Removing Unaccompanied Children

Throughout the process of removing an unaccompanied child, all officers involved in the removal must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009 (refer to ['1.2 Application of this Instruction in Respect of Children and those with Children'](#)). Officers must bear in mind that the prospect of removal is likely to be distressing and stressful for the child. Reasonable and practical steps must therefore be sought to minimise this and to safeguard and promote the welfare of the child.

Once an unaccompanied child has been accepted by TCU as a third country case, TCU will notify the relevant local authority children's services department by letter, explaining that the child is being treated as a third country case, what the implications of this are and that UK Border Agency staff will be in contact shortly to discuss this issue further.

At this point, TCU will also offer the local authority children's services department the option to meet with them to ask any further questions they might have or to pass on any important information. LITs/LEOs are not expected to attend this meeting but they must attend the second meeting detailed in ['7.3.1 The Meeting Between the Local Authority Children's Services Department and the UK Border Agency'](#).

A further letter is also issued by TCU to the child and/or the child's representatives stating that enquiries are being made to a safe third country, regarding which Member State is responsible for dealing with their asylum claim. This letter will also offer the child the opportunity to state any reasons, which are not part of their asylum claim, as to why they should not be removed from the UK to a safe third country. All statements made will be fully considered.

[7.3.1 The Meeting Between the Local Authority Children's Services Department and the UK Border Agency](#)

After the Member State accepts responsibility for the child, TCU will aim to setup a meeting with the relevant social services' department and the LIT/LEO. TCU will endeavour to hold this meeting within 10 days of receiving the acceptance. During this meeting the following will be discussed:

- Any reasons the local authority children's services department may have as to why the child should not be removed;
- The likelihood of the child absconding;
- Any additional factors which may indicate that the child is particularly vulnerable;
- Appropriateness and viability of same day removal;
- Children's services producing and releasing to either the UK Border Agency and or the child, copies of their UK care plan and if appropriate age assessment, to be passed to the receiving Member State either by the applicant on their arrival or via TCU in advance of their transfer.

During the meeting the LIT/LEO must fully complete the 'TCU Child Check Sheet and Social Services Liaison Form' (see below) and ensure that TCU and the Social Services receive a copy (if sending the form electronically to the Social Services it **must** be encrypted). Please note this form is protectively marked RESTRICTED and must not be forwarded to any other parties. All hard copies of the form within UKBA must be clearly labelled as 'Medical Information – RESTRICTED' and placed in an unsealed envelope which must also be clearly labelled as 'Medical Information – RESTRICTED' and then placed in the Port/HO file.

For further guidance refer to the [UKBA Information Management](#) web site.

If the removal of the child is unsuccessful and the child is returned into care, another meeting between the local authority children's services department and the UK Border Agency would be required if TCU decides to continue with the removal. At this meeting the reasons for the attempted removal failing should be discussed and if possible addressed, so that any subsequent attempt to remove is likely to be successful. The key points of this meeting must be documented and retained on the Port/HO file.

Please note: As stated above, if the child (or representative) submits representations regarding their removal from the UK these must be recorded and carefully considered by TCU.

7.3.2 Seeking Same Day Removal of an Unaccompanied Child

When considering whether or not to seek the same day removal of a child, the LIT/LEO must fully consider on a case by case basis whether they believe, in light of all available evidence, the child would abscond if told of their imminent removal from the UK.

When considering same day removal the LIT/LEO should review the indicators below which might assist the LIT/LEO in establishing whether or not the child is likely to abscond. These indicators must be considered by the LIT/LEO in the round on a case by case basis. It is important to stress that these indicators are neither exhaustive nor determinative.

- Child has stated that they have no intention of leaving the UK;
- Child has stated that they will not comply with removal;
- There is evidence of disruptive/criminal behaviour whilst the child has been in the UK (e.g. non-compliance with social services or getting into trouble with the police);
- Child's behaviour or other attribute indicates particular vulnerability (this would indicate that same day removal might be appropriate even if risk of absconding cannot be held to be of a high likelihood. This is because if the child did indeed abscond, they would be more likely to be at risk of coming to harm, or the consequences of that harm would likely be greater);
- Close friends who have influence on the child's behaviour have previously absconded;
- Evidence of deception (e.g. false documentation, lying to an Immigration Officer);

- Previous disappearance from social services care within UK;
- Evidence of disruptive behaviour, non-compliance, absconding and deception within another Member State.

7.3.3 Referral to the Office of the Children's Champion (OCC)

After the meeting between children's services and the UK Border Agency, if removal is still considered appropriate, TCU will fax a starring pro-forma to the LIT/LEO. Within four weeks of receiving the starring pro-forma the LIT/LEO must:

- Make a referral to the OCC using the 'OCC Referral pro-forma' below. Please note this form is protectively marked RESTRICTED and must not be forwarded outside of the GSI network. For further guidance refer to the *UKBA Information Management* web site.

Complete the 'OCC Referral pro-forma' and attach it along with the 'TCU Child Check Sheet and Social Services Liaison form' to an email and send both to the ChildrensChampion@homeoffice.gsi.gov.uk and TCUChildrensTeam@homeoffice.gsi.gov.uk (the OCC endeavours to respond to all referrals within 5 working days, but as much notice as possible should be given);

- Consider the OCC's response (however, the LIT/LEO has the final say on removal);
- Where same day removal of an unaccompanied child is necessary, send a submission to the regional deputy director of the LIT/LEO responsible for the removal, seeking written authority for the same day removal.

7.3.4 Service of Removal Documentation

Once the referral has been made and it has been decided whether or not to pursue same day removal of the child, the LIT/LEO must complete the following actions:

- Serve the applicant's:
 - Third country certificate;
 - A copy of the acceptance letter issued by the Member State;
 - All other standard removal documents such as the IS.87 (non-UK) appeal papers and the factual summary (which must be updated by the LIT/LEO). Please Note: this should be served on the day of removal if authorisation has been received for the same day removal of the child.
- Set removal directions according to standard procedures (for further guidance refer to *Chapter 51 of the Enforcement Instructions and Guidance*), also complying with the following:

- Removal directions must be set ensuring that three clear working days are given between serving the certificate and the actual removal, however, if authorisation for same day removal has been given the certificate must be served on the day of the removal;
- The removal must not take place over a weekend;
- The removal must not take place on dates which are public holidays in the Member State;
- Arrange a flight leaving the UK as late as possible in the morning but before 2pm, to avoid early morning visits. It is important that the UK visit is not too late, because that would result in a late flight and potentially a night-time arrival in the Member State;
- Remove from a regional port where possible;
- Avoid internal flight transfers to London Airports where possible;
- Arrange escorts to accompany the child to the Member State by:
 - Fully completing the IS.108 Request for Escorts Public Expense Removal Case Form and ensuring that the form is clearly marked to reflect that the escorts are required for a child;
 - Faxing the IS.108 Form directly to the overseas escort supplier, currently G4S (please ring G4S in advance to alert them that a fax is being sent to them).

Please note: Although Section 55 of the Borders, Citizenship and Immigration Act 2009 does not apply to UK Border Agency staff and contractors overseas, it is UK Border Agency policy that when escorts are escorting children overseas, they should have regard at every stage of the journey, to the need to safeguard and promote the welfare of children.

7.3.5 Notifying the Social Services of the Child's Imminent Removal

The LIT/LEO must also make contact with the relevant Social Services department to:

- Notify them of the child's removal date;
- Clarify pick-up arrangements for the child;
- If TCU is aware of the general reception arrangements that are expected to be in place once the child arrives in the Member State they will pass on this information to the child's social worker (and if appropriate the child's foster family);
- If the child is considered to be an adult in the receiving Member State, request a copy of the child's age assessment (omitting all sensitive information), which should, if possible, be sent to the receiving authorities of the Member State for their consideration prior to the child's arrival. If this is not possible it should accompany the child and be handed to the receiving authorities upon arrival;
- Request a copy of the child's care plan and the social worker's and foster family's contact details (subject to their agreement) which should, except in exceptional circumstances, be sent to the receiving authorities for their consideration prior to the child's arrival. If this is not possible it should accompany the child and be handed to the receiving authorities of the Member State upon arrival.

Palate

7.3.6 Detention Process and Paperwork

When planning and undertaking the removal of an unaccompanied child, officers must take reasonable and practical steps to minimise any distress that the child might experience and where possible ensure that the child is comfortable.

When detaining the child for purposes of removal (usually for only a few hours whilst the child is escorted to the airport), all of the appropriate actions below, must be adhered to:

- Arrest the child under schedule 2 if the IS151A has been served (if the IS.151A has not been served, arrest on suspicion and then serve the papers);
- Advise the overseas escorting supplier that the detention has been undertaken and of any additional risk factors, if identified;
- Complete the IS.91R ensuring:
 - Box 'C' is ticked in the first part under section 2;
 - Tick boxes 5, 7, or 9 in the second part under section 2.
- Serve the IS.91R;
- Complete the IS.91 ensuring:
 - 'In Transit' is inputted as the 'Place of Detention' under section 4;
 - 'UK Border Agency' is inputted as the 'Detaining Agency' under section 4;
 - The time and date of putting the child into UK Border Agency detention is logged under section 4.
- At the van swap (in a secure area e.g. Yarls Wood) amend the IS.91 by:
 - Putting the contracting company as the 'Detaining Agency';
 - Putting 'In transit to Gatwick' (or whatever port the child is embarking from) as the 'Place of Detention';
 - Logging the time of the transfer.
- On arrival at the port, the contracting company should amend the IS.91 by:
 - Putting the port as the 'Place of Detention';
 - Logging the time of arrival at the port.

If detention is not undertaken, fax form 'IS109 - Cancellation of Escorts' to the overseas escorting supplier (please ring G4S in advance to alert them that a fax is being sent to them) and DEPMU.

7.3.7 TCU Children's Team

Throughout the removal process of the unaccompanied child it is vital that the TCU Children's Team is kept informed of any developments.

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7.4 LIT/LEO Action – Removing Families

If considering splitting a family, in addition to the actions listed in [‘7.2 LIT/LEO Action - Removing Non-Detained Cases’](#), LITs/LEOs must also:

- Consult the OCC;
- Consider Article 8 of the ECHR;
- Consider in line with Section 55 of the Borders, Citizenship and Immigration Act 2009;
- Obtain agreement from the Regional Deputy Director of the LIT/LEO responsible for the case.

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8. Third Country Returns

8.1 Port Action - Third Country In-Cases

When a third country in-case is returned to a UK port, the receiving port must conduct a risk assessment as per normal procedures and consider each case on a case by case basis.

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8.2 ASU, LIT/LEO and Port Action - Third Country Removals Who Have Returned

All repeat third country applicants must be re-fingerprinted.

If an applicant returns to the UK after previously being removed under third country legislation and they wish to continue with their asylum claim it must be recorded onto CID as an initial asylum claim and not a fresh one.

This action must be taken because we have not previously refused their first asylum claim; rather we have declined to consider it as we are not the responsible Member State. Therefore, when the applicant returns it is incorrect to consider under Paragraph 353 of the Immigration Rules because to do so, the asylum claim would have had to have been refused previously.

The case must then be assessed to see if removal under third country legislation is still appropriate by conducting a travel history interview record (ASL.3766) to ascertain where the applicant has been since they left the UK and come back. The case must then be referred to TCU (see '[4.3 Ports, ASU, LITs/LEOs and Case Owners Referring Actions](#)').

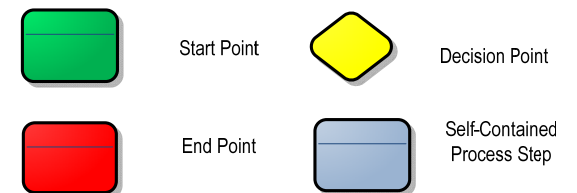
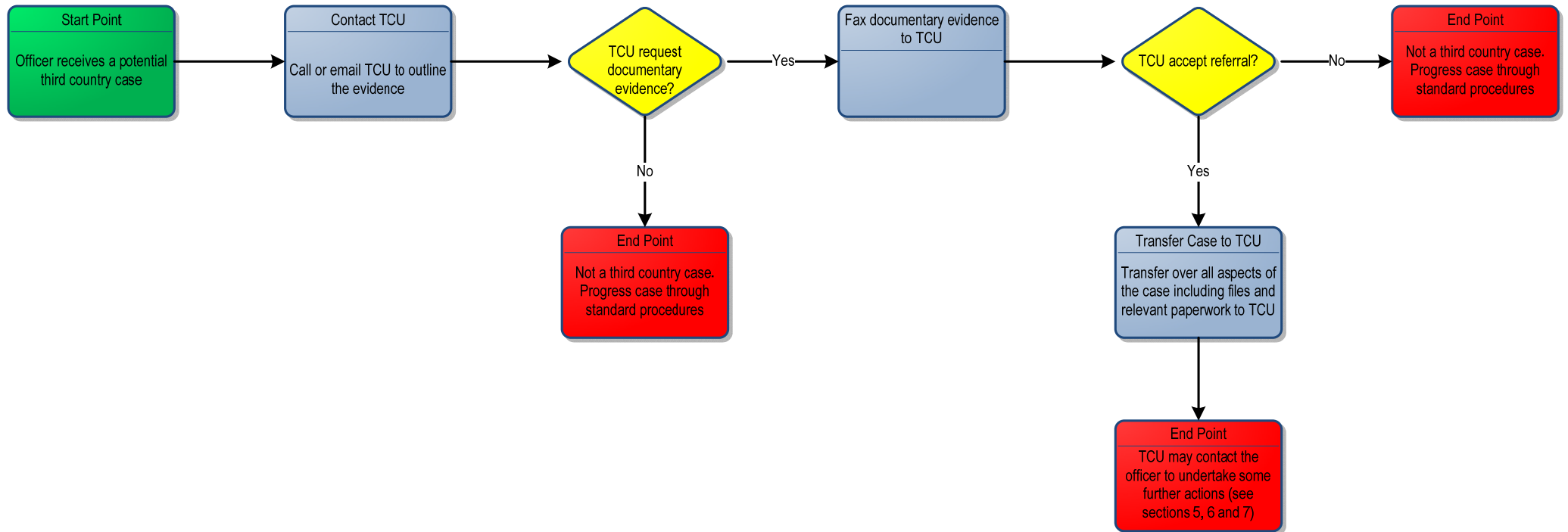
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8.2.1 Section 95 Support

Applicants who return to the UK after a third country removal and wish to continue with their asylum claim still have an outstanding asylum claim which has not yet been determined, so they will be asylum seekers for support purposes, and so may be eligible for section 95 support if they are destitute.

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Annex 9A – Referring Cases to TCU Process Map



Glossary

Term	Meaning
ASU	Asylum Screening Unit
DART	Detention and Removals Team (TCU)
DEPMU	Detainee Escorting and Population Management Unit
Dublin Regulations	Agreement between Member States for determining the responsibility of third country cases
Eurodac	Database to store, search and compare fingerprints to support the Dublin arrangements
IAFS	Immigration Asylum Fingerprint System
IFB	Immigration Fingerprint Bureau
LEO	Local Enforcement Office
LIT	Local Immigration Team
OCC	Office of the Children's Champion
OEM	Operational Enforcement Manual
PNC	Police National Computer
PVOT	Potential Victim of Trafficking
TCU	Third Country Unit
VOT	Victim of Trafficking

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Document Control

Change Record

Version	Authors	Date	Change Reference
1.0	BN	14.01.09	New published instruction.
2.0	BN	05.05.09	Updated instruction to reflect minor changes to trafficking and removal of unaccompanied children processes.
2.1	BN	09.10.09	Amendments in light of the Children's Duty.
2.2	BN	22.10.09	Amendments in light of LAB comments.
3	BN	30/10/09	Update to include Children's Duty