

# FINGERPRINTING

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# 1. Introduction

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## 1.1 Audience and Purpose

This instruction is intended for the sight of all officers requiring an understanding of the circumstances in which UKBA may obtain fingerprints from asylum applicants.

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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.

All UKBA staff (and contractors carrying out UKBA functions) must have regard to the statutory UK Border Agency's Section 55 guidance, "[Every Child Matters: Change for Children](#)" [Section 55 Children's Duty Guidance](#), which 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.

It is important to understand that the Fingerprinting process operates alongside existing child safety procedures and considerations, and – in some cases – assists such procedures and considerations. It does not replace such considerations, or reduce the scrutiny which must be given to child safety at asylum screening and throughout the asylum process.

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## 1.3 Purpose of Fingerprinting

The purpose of fingerprinting asylum claimants is to positively identify them and to identify and deter multiple asylum claims at national and international level. Fingerprinting is also targeted at deterring 'asylum-shopping' within Europe by recording and checking fingerprints on the Eurodac database. The Eurodac system is a Europe wide fingerprint database which was established by community regulation supporting the Dublin II Regulation and therefore forms part of European Community Asylum law. The fingerprints of all applicants from the age of fourteen are recorded on Eurodac.

For further information, see the instructions "Multiple Applications" and "Safe Third Country Cases".

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## 2. Power to Take Fingerprints

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### 2.1 Legal Power and Authority

Sections 141 and 142 of the Immigration and Asylum Act 1999 lay out the principal powers enabling the taking of fingerprints for immigration purposes.

Immigration officers (IOs) at ports, officials in the Asylum Screening Units (ASUs) and at Application Registration Card (ARC) Event Centres are authorised to take fingerprints. Police constables, prison officers and persons employed by removal centre contractors are also empowered to take fingerprints.

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### 2.2 Who Must Be Fingerprinted

All asylum applicants can be required to have their fingerprints taken, from the point of claim until the applicant (if refused) has exhausted all rights of appeal or has abandoned the claim. There may be other circumstances in which the fingerprints can be taken after this time (depending on how the applicant entered the UK). For practical reasons fingerprints should be taken as early in the process as possible.

All claimants and their dependants (over five years of age) must be fingerprinted. 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. See [1.2 Application of this instruction in respect of children and those with children](#).

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### 2.3 Requirement For Applicants And/Or Dependants To Attend For Fingerprinting

If claimants and/or their dependants are required to attend a specified place to be fingerprinted, they must be given at least 3 days notice. This notice period does not apply when a claim for asylum is made, and those authorised to do so take the claimant's fingerprints on the day.

The asylum seeker and/or his dependants can be directed to attend during a specified period; a specified day; or on a specified day during a specified hours or at a specified time. (See section 29 of the [Immigration, Asylum and Nationality Act 2006](#).)

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### 2.4 Fingerprinting As Part Of The ARC Issuing Process

Asylum claimants being issued with an ARC must be fingerprinted.

Those who should not be issued with an ARC are:

- Applicants who cannot be fingerprinted due to a physical disability preventing the capture of fingerprints. A Standard Acknowledgement Letter (SAL) should be issued in such cases;
- EU nationals claiming asylum. These claimants must still have their fingerprints taken.

For further guidance, see Application Registration Card.

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## 3. Managing Fingerprint Records and Casework Actions

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### 3.1 Immigration Fingerprint Bureau

All fingerprints are examined and retained in the Immigration Fingerprint Bureau (IFB). IFB will provide a report of any fingerprint matches to **all** units and/or ports that have taken fingerprints from the matched identities.

#### 3.1.1 Storage of Fingerprints

**All** hardcopies of fingerprints **must** be held in IFB. Originals or copies of prints should **not** be attached to the Home Office file.

If officers find original or copies of prints attached to a file, they should send these to IFB in a sealed envelope for correct filing, enclosing a covering note explaining where they were found.

#### 3.1.2 Retention of Fingerprints

Under [Immigration and Asylum Act 1999](#) (as amended by inserted by the Anti-terrorism, Crime and Security Act 2001), fingerprints will now normally be retained for 10 years. This applies to successful and unsuccessful claimants.

#### 3.1.3 Data Protection Rights

The [Immigration and Asylum Act 1999](#) makes provision for the destruction of fingerprints which have been taken under section 141 of the Act (although note the retention timescales at [3.1.3 Requirement For Applicants And/Or Dependants To Attend For Fingerprinting](#)).

- Claimants may request confirmation that computer data which relates to their fingerprints has been destroyed, erased or blocked as required under section 143 of the 1999 Act. When such a request is received, a certificate must be issued within 3 months of the request date;
- Under the Data Protection Act 1998, claimants can obtain copies of their fingerprints by making a subject access request under section 7 of the Act. All subject access requests should be referred to the Subject Access Bureau.

See Chapter 24 - Disclosure of Personal Information of the Immigration Directorate Instructions.

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### 3.2 Multiple Applications

If a fingerprint match reveals that a claimant has made a previous claim in another identity, this is regarded as a Multiple Application. Such persons must be treated as one claimant. See the instruction on Multiple Applications.

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### 3.3 Obtaining Fingerprint Evidence For Use At Appeal

Decisions relying on fingerprint evidence must include IFB Identification Reports in the appeal bundle. Any dispute about the identification that raises questions of a technical nature, or any request for confirmation of the identification, should be referred to IFB.

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## 4. Refusal To Provide Fingerprints

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Fingerprinting is part of an asylum claimant's initial screening process. An ARC or a SAL will not be issued if a claimant refuses to be fingerprinted or fails to attend for fingerprinting. The asylum claim may also be refused on non-compliance grounds. For further guidance on dealing with non-compliance issues, see Non-Compliance.

If a claimant refuses to be fingerprinted this may also be taken into account in the reasons for refusal letter as a credibility issue. There is a general requirement under section 8 (1) of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the UK Border Agency to take into account as damaging to the claimant's credibility any behaviour that is designed or likely to conceal information or obstruct or delay the handling or resolution of the claim. For further guidance on assessing credibility, see Considering the Asylum Claim.

Claims must not be refused solely on the basis that the applicant refused or failed to attend for fingerprinting. The claimant's substantive claim should also be considered.

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### 4.1 Using Force To Take fingerprints

Section 146(2) of the Immigration and Asylum Act 1999 gives any person authorised to take fingerprints the power to use reasonable force to fingerprint any claimant or dependant who is refusing to provide his or her fingerprints. If a claimant or dependent continues to obstruct the taking of their fingerprints, this should be taken into account in the reasons for refusal letter. The claimant should not be issued with an ARC or SAL.

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