



Asylum: A thematic inspection of the Detained Fast Track

July – September 2011



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Foreword from John Vine CBE QPM



Since its introduction in 2003, the Detained Fast Track (DFT) has been a prominent feature of the UK Border Agency's management of asylum applications. It is used by the Agency to manage asylum applications that have been identified as ones where a decision to grant or refuse asylum can be made quickly. Introduced originally at a time when asylum applications were at record levels, it has remained in place with the continuing aim of deciding cases quickly and removing those whose applications fail.

I found that the majority of people whose claims were refused and who had no right to remain were removed from the UK – 73% of my file sample. The independent Tribunal also upheld 93% of the decisions made by the Agency to refuse asylum. This is a very high percentage particularly when compared with asylum claims decided regionally.

However, the DFT is not working as quickly as intended and has insufficient safeguards to prevent people being incorrectly allocated to it. On average, decisions are not being made until 13 days after a person's arrival in the DFT, despite the Agency's published aim of three days. This is a significant disparity. The Agency did not record why the delays were occurring and was unable to demonstrate whether they were primarily to assist the applicant or due to resource or capacity constraints. Similarly, while the proportion of removals is high compared with cases managed outside detention, it took longer than three months to remove 40% of my file sample.

Thirty percent of people initially allocated to the DFT were released from detention at some stage. While the Agency does have safeguards in place, I am concerned at the continued risk faced by victims of torture and trafficking. In particular, the Agency must address the lack of privacy at screening interviews and tailor its standard questions across the range of screening locations, if it is to reduce this risk.

Finally, given that the process involves detention, I am concerned that the Agency has not conducted and published any analysis of its operation. I would like to see this happening routinely with a focus on the quality and timeliness of allocation, decision-making and removals together with the associated costs. This will enable the operation of, and rationale for, the DFT to be more transparent which is essential if the Agency is to maintain public confidence in the way this important work is managed.

I have made eight recommendations for improvement which I expect to see swiftly implemented by the Agency.

A handwritten signature in black ink that reads "John Vine .". The signature is written in a cursive, slightly stylized font.

John Vine CBE QPM
Independent Chief Inspector of the UK Border Agency

1. Executive Summary

1. The UK Border Agency is responsible for the case management of all asylum applications made on entry at any of the UK's ports and those made by people already in the country. The Detained Fast Track (DFT) is one of five case management systems and it is used by the Agency to manage asylum applications that have been identified as ones where a decision to grant or refuse asylum can be made quickly. The DFT was first introduced in 2003 for adult male applicants only and was extended to women applicants in 2005. Currently, the Agency uses Harmondsworth and Yarls Wood Immigration Removal Centres to detain people for the duration of their claims. This inspection assessed the efficiency and effectiveness of the Agency in managing asylum claims through the DFT.
2. A significant number of people initially screened as suitable for the DFT were subsequently released. Of 114 cases sampled, 30% were taken out of detention at some stage and 27% of these were released before a decision on their asylum claim had been made. Most of these people (44%) were released due to health issues and evidence they were victims of torture or trafficking and 32% were released because of difficulties in obtaining travel documentation for removal.
3. Screening was not tailored to capture information that could fully determine whether someone was suitable for the DFT. While safeguards were in place once people had been detained, there remained a particular risk that the victims of torture or trafficking could be allocated to the DFT contrary to the Agency's own policy. The Agency had conducted a review of the Asylum Screening Unit (ASU) in Croydon with a view to improving efficiency but there was no evidence that improvements were planned at other screening locations.
4. In the cases sampled, only one person was granted asylum and 98 were refused. However, the quality of decisions was high with the independent Tribunal upholding 93% of the Agency's decisions to refuse. The Agency had, in general, associated the granting of asylum with the complexity of the claim but had not conducted any analysis of why this should be the case.
5. There was a significant disparity between the published timescales for interviews and decisions in the DFT and the timescales from our file sampling. The average time between arrival and interview was 11 days instead of the two days that the Agency aimed for. This produced an additional total cost to the taxpayer of £106,692. On average, people waited 13 days in detention before a decision was made on their claim compared to the three to four day timescale the Agency aimed to meet. In the overwhelming majority of cases the Agency did not record the reasons for delay. It was not therefore possible to determine whether these were due to applicants being allowed more time to prepare for interview or to other issues such as resource and capacity constraints in the Agency.
6. The DFT makes a significant contribution to the overall number of people removed by the Agency. In our sample, 73% of those refused asylum and who had no right to remain were removed from the UK. We found that 62% were removed within three months but it took longer than three months to remove 38% of people.
7. The number of complaints from applicants in the DFT was low. Of four cases in our sample, three were not substantiated but the outcome of the fourth was not recorded. There was an inconsistent understanding by staff of what constituted a complaint as set out in the Agency's guidance. Information on how to make a complaint at the ASU was limited with only one poster explaining the process and no information in languages other than English.

8. The screening environment at the ASU was not sufficiently private and potentially affected the personal and sensitive information applicants needed to provide. Whilst the Agency's website and published guidance does provide details on how to register an asylum claim in the UK, further information was not given to applicants at the ASU to explain how and where their asylum claim might be managed. Applicants were not verbally informed that they might be detained in order for a decision to be made quickly on their claim.
9. Based on our sample, the Agency had taken account of its safeguarding duties to children. No children under 18 and no families with dependent children under 18 had been allocated to the DFT. Difficulties in assessing the correct age of some applicants can lead to children being incorrectly assessed as adults in the first instance and allocated to the DFT. This had occurred on a number of occasions between 2009 and 2011.
10. The handling of personal data was effective in the majority of cases sampled. However, 5% contained information about a person entirely unrelated to the applicant. File management was generally good with papers held in a chronological order and with minimal duplication.
11. The Agency had not carried out a comparative cost analysis of the DFT and regional asylum case management. It did not routinely monitor or publish the timescales and cost of the DFT. It had not assessed whether any cases currently managed by regional asylum teams were suitable for the DFT or, conversely, whether it was feasible for cases currently dealt with in the DFT to be decided in similar timescales outside detention.

2. Summary of Recommendations

We recommend that the UK Border Agency:

1. Reduces the number of people allocated incorrectly to the Detained Fast Track by enabling and encouraging applicants to disclose personal information at screening interviews affecting their suitability for the Detained Fast Track.
2. Improves its treatment of applicants by providing information at screening about how asylum claims are managed, including the possibility of allocation to the Detained Fast Track.
3. Improves its complaints handling by informing applicants at all screening locations of how they can make a complaint; and by ensuring that all complaints are recorded and resolved.
4. Increases the accuracy of its published guidance by changing its indicative timescales for interviews and decisions in the Detained Fast Track in line with the average time taken.
5. Increases assurance that detention is lawful and that processes are efficient by recording in each case the reasons why any timescales for interviews and decisions are not met.
6. Safeguards the personal information of applicants by ensuring files contain accurate personal data relevant only to the subject of that file.
7. Increases public assurance of the Detained Fast Track by publishing information on the quality and timeliness of allocation, decisions and removals with associated costs.
8. Increases the efficient use of detention space by assessing whether cases currently managed in the Detained Fast Track can be quickly decided without the need for detention; and whether cases currently managed by regional asylum teams are suitable for the Detained Fast Track.

3. Inspection methodology

- 3.1 The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. In 2009, the Independent Chief Inspector's remit was extended to include customs functions and the work of UK Border Agency contractors.
- 3.2 The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
- 3.3 The terms of reference for this thematic inspection were:
- To inspect the operation of the Detained Fast Track (DFT) with particular reference to how asylum applicants are allocated to it; the timescales for interviewing and deciding applications; the numbers of people granted or refused asylum and, where relevant, removed from the UK; the costs of the operation; and comparison with applications decided outside the DFT.
- 3.4 In conducting the inspection, we assessed the UK Border Agency against the criteria set out in Appendix 1.
- 3.5 The onsite phase of the inspection took place between 4 July and 4 August 2011. The methodology used for the inspection was as follows:
- a review of the law, submissions and reports from 17 interest groups and the UK Border Agency's policy and procedures relating to the DFT;
 - interviews and focus groups with UK Border Agency case owners and managers, Serco managers at Yar's Wood and GEO managers at Harmondsworth Immigration Removal Centres (IRCs), present detainees and ex-detainees with experience of the DFT;
 - an assessment of 114 case files (56 male and 58 female) that were referred to the DFT; and
 - observations of the screening interview process at the Asylum Screening Unit in Croydon, the induction process for people entering the DFT and three appeal hearings at the Asylum Immigration Tribunal based at Harmondsworth.
- 3.6 The inspection team provided feedback on the inspection's emerging findings to the UK Border Agency on 14 September 2011.
- 3.7 The inspection identified eight recommendations for improvement. A summary of recommendations is provided on page five of this report.

4. Introduction

What is asylum?

- 4.1 Asylum is when a country gives protection to someone who is attempting to escape persecution in their own country of origin. To qualify for refugee status in the UK, an individual must apply to the UK Border Agency (the Agency) for asylum and demonstrate that they meet the criteria as set out in the Refugee Convention.¹ According to the Convention, a refugee is someone with a well-founded fear of persecution who is unable or unwilling to return to their country of origin.
- 4.2 If an individual does not qualify for refugee status, they will also be considered for protection or permission to remain in the UK on two other grounds. Firstly, to qualify for humanitarian protection, a person must demonstrate that they would face a real risk of suffering serious harm² on return to their country of origin. Secondly, an individual can further apply to remain in the UK on the basis that a return home would breach their human rights³. Human rights claims can form part of an asylum claim under the Convention but they can also be made separately.

The asylum system in the UK and the Detained Fast Track

- 4.3 When an applicant makes a claim for asylum, the Agency carries out an initial assessment, known as a screening interview. The interview is used to gather personal information from the applicant and the basic nature of a claim for asylum. Information gathered during this first point of contact is then assessed by the Agency to determine the most appropriate path for the claim to be considered.
- 4.4 There are five paths an application can take (see Appendix 2) according to the circumstances of the claim and the profile of the applicant. Two of them, the Detained Non-Suspensive Appeals (DNSA)⁴ process and the Detained Fast Track (DFT), place the applicant in detention for the duration of their claim.
- 4.5 The DFT is used by the Agency to manage asylum applications that can be decided quickly. In effect, this means where the individual circumstances of a claim for asylum have been identified as uncomplicated and a decision to grant or refuse asylum can be made swiftly. A fast track system for asylum claims was first introduced in 2000 at Oakington Immigration Removal Centre (IRC) for adult male applicants only.⁵ A key characteristic of the original system was that decisions would be made within seven days, at which point applicants would be released either having been granted protection or refused. Those who were refused had the opportunity to appeal against the Agency's decision in the community.

1 The 1951 United Nations Convention relating to the Status of Refugees states that a refugee is someone with a fear of persecution because of their race, religion, nationality, political opinion or membership of a particular social group.

2 Serious harm means either the death penalty; torture or inhumane or degrading treatment or punishment; or a serious and individual threat to a person's life or safety in situations of armed conflict.

3 Most human rights claims are based on Article 3 (prohibition on torture and inhumane or degrading treatment) and Article 8 (right to respect for family life and private life) laid down in the 1950 European Convention on Human Rights.

4 Non-Suspensive Appeals refers to claims made by applicants in countries that the UK Border Agency considers to be safe to return to. Applications are certified to be 'clearly unfounded' and applicants can only appeal against the Agency's decision to remove them from the UK after they have been removed.

5 This comprised a 'fast-track' interview and decision for adult males detained at Oakington IRC only.

4.6 In 2003, the DFT process was introduced at Harmondsworth IRC. The new process extended the detention period of applicants beyond the initial decision to include the appeals process and, if appropriate, removal. The aim of introducing an accelerated appeals process was to ensure that claims could be dealt with more speedily at every stage an application went through, compared with claims taking place in a non-detained setting. In 2004, the Government described the purpose of the DFT as follows:

*“...to deliver decisions quickly ensuring, amongst other things, that those whose claims can be quickly decided can be removed as quickly as possible in the event that the claim is unsuccessful”.*⁶

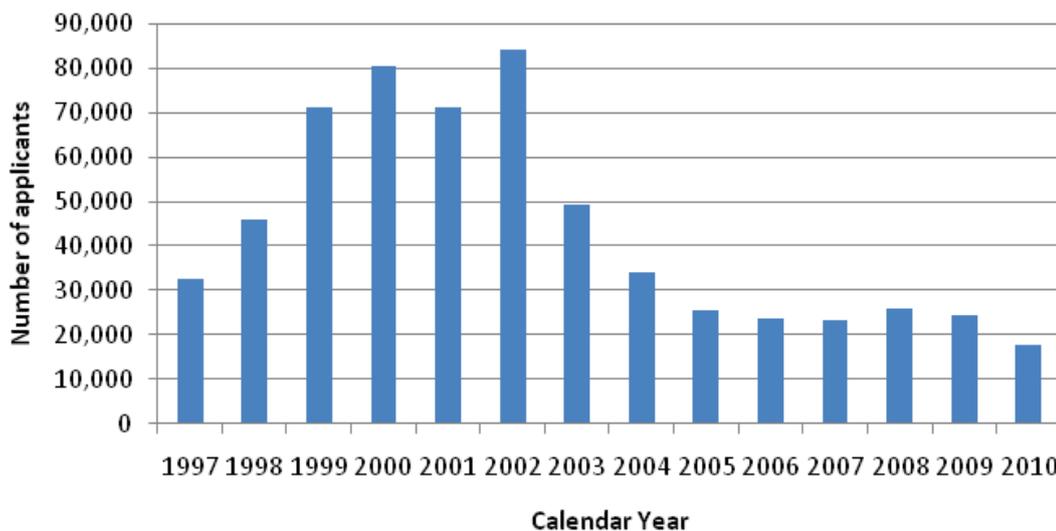
4.7 In 2005, the DFT was extended further to include female applicants. The fast track system for women currently operates at the Yarl’s Wood IRC.

Asylum applications received by the UK

4.8 In the years leading up to the development of the DFT, the UK saw a significant rise in asylum applications. Having peaked at 84,000 in 2002, applications began to fall sharply reflecting changing world circumstances and the introduction of the Nationality, Immigration and Asylum Act 2002⁷. The relative importance of Europe as a destination for asylum-seekers has also declined in recent years. In 2005, 38 European countries received almost 60% of all asylum applications worldwide. By 2009, this had fallen to 45%. The 27 Member States of the European Union registered 235,900 asylum claims in 2010, a 5% decrease compared to 2009 (247,300). These 27 countries together accounted for 87% of all asylum claims in Europe.⁸

4.9 Figure 1 shows the number of asylum applications received by the UK between 1997 and 2010.

Figure 1: Total UK asylum applications 1997-2010



6 Ministerial Statement delivered by Minister for Immigration, Des Browne, House of Commons, 16 September 2004

7 <http://www.legislation.gov.uk/ukpga/2002/41/contents>

8 <http://www.unhcr.org/4d8c5b109.html>

The Detained Fast Track

- 4.10 The introduction of the Detained Fast Track (DFT) formed part of the Government's overall response to the increased trend in applications to the UK⁹. Over the last few years, asylum applications have stabilised. Aside from a peak in applications during the first quarter of 2009, applications decreased steeply before stabilising again in 2010. The most recent figures from 2011 indicated that asylum applications were showing minimal rates of growth. While applications overall have declined over recent years, allocation to the fast track¹⁰ has increased from 1,672 applicants in 2008 to 2,571 in 2010.¹¹
- 4.11 Any adult from any country can be detained for the purposes of deciding their refugee status. After screening, a referral should be made to the Fast Track Intake Unit (FIU) where, based on the facts available at that time, an assessment is made on whether the claim is one that can be decided quickly. The Agency provides its staff with guidance on applicants that may and may not be suitable for the DFT.¹² Applicants unlikely to be suitable are:
- Women 24 weeks pregnant or over;
 - Applicants with health conditions needing 24 hour medical care;
 - Disabled applicants, except the most easily manageable;
 - Applicants with infectious and/or contagious diseases;
 - Applicants with severe mental health problems;¹³
 - Where there is evidence that applicants have been tortured;
 - Children (under 18 years old) and families with dependent children;¹⁴
 - Victims or potential victims of trafficking¹⁵ as decided by a 'competent authority'.¹⁶
- 4.12 Once allocated to the DFT, an applicant's path through the system is similar to that of any applicant but the timescales for completing an asylum claim are intended to be much quicker than they are in a non-detained setting. Throughout the process, applicants can apply to be transferred out if they believe they are unsuitable for detention. Applicants are entitled to free legal advice and representation through a solicitor duty rota system and can also apply for an extension to the interview timetable under certain circumstances (see paragraph 4.22).
- 4.13 The Agency also operates another detained case management process for asylum applicants. This applies where cases are to be certified as clearly unfounded and where a person whose claim is refused can only appeal after they have been removed from the UK. This is referred to as the 'Detained Non-Suspensive Appeals' process (DNSA).

9 In the three years prior to the introduction of DFT (1997-1999), asylum applications increased from 32,500 to 71,000. Figures for applications made in 1999 showed a 55% increase on the previous year's number of applicants.

<http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs/hosb1700.pdf>

10 These figures include both the DFT and DNSA asylum detention systems

11 Table 12: Outcomes of asylum main applicants accepted onto fast track process, Immigration Statistics April-June 2011 Volumes 1-3

12 DFT and DNSA Intake Selection, UK Border Agency intranet

13 For example: acute psychosis or schizophrenia requiring hospital care.

14 Dependent children are also defined as under 18 years old.

15 Trafficked people refer to applicants who have been forced to enter the UK illegally for the purposes of sexual exploitation or forced labour.

16 The Agency's guidance to staff states that '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. For these purposes a 'competent authority' is a member of staff authorised by UKBA to consider an applicant a potential victim or conclusively decide an applicant is a victim of trafficking.

Fast track detention, the law and the rights of people detained

- 4.14 The Nationality, Immigration and Asylum Act 2002¹⁷ placed the fast track process on a statutory footing and enables the Agency to detain asylum seekers, whatever their country of origin, if:
- their claims can be processed quickly; and
 - they can be removed within a reasonable time (if their applications have been unsuccessful).
- 4.15 The Fast Track Appeal Procedure Rules 2003, subsequently amended by the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005, laid out the basis for applicants to appeal against asylum decisions made whilst in detention. Under the Rules, the process for appeal is also accelerated and a statutory timetable is set out.
- 4.16 Detention for immigration purposes¹⁸ is lawful as long as it is not arbitrary and is compatible with Article 5 of the European Convention on Human Rights.¹⁹ Article 5 restricts the circumstances in which applicants can lawfully be detained. Article 5 (4) entitles anyone detained to have access to a review by a court of the legality of the detention, and Article 5 (5) also gives detainees a qualified right to compensation for any breach of Article 5 (1). Provision to detain for the purpose of deciding an asylum claim exists in all countries in the EU although there is no commonality in the way it is enacted.

Lawful detention

- 4.17 The law provides for former asylum seekers, refused protection by the Agency and with no rights of appeal left, to be detained in an IRC whilst the Agency arranges for their removal from the UK. However, the Agency also has to consider the likelihood of being able to successfully remove a failed asylum applicant in continuing to detain.
- 4.18 Chapter 55 of the Agency's Enforcement Instructions and Guidance sets out the policy on detention. Paragraph 55.1.4.1 states *"to comply with Article 5 and domestic case law, the following should be borne in mind:*

(b) the detention may only continue for a period that is reasonable in all the circumstances;

(c) if before the expiring of the reasonable period it becomes apparent that the purpose of the power, for example, removal, cannot be effected within that reasonable period, the power to detain should not be exercised."

Challenges to the lawfulness of the use of detention for asylum decision-making purposes

- 4.19 The lawfulness of detention as part of the DFT was challenged in the House of Lords in 2002. The ruling in *Saadi v. Secretary of State for the Home Department* considered the length of detention – seven days - in these circumstances to be proportionate in order to make a decision on Dr Saadi's asylum claim.²⁰ The consequences of further periods of detention after a case owner had granted or refused some form of protection were not considered as part of the ruling as, at the time, applicants did not remain in detention while their appeal was heard. The ruling also reflected the particular physical environment at Oakington which was described by the Agency (in its previous form as the Immigration and Nationality Directorate) as a relaxed regime very different from other IRCs.

¹⁷ <http://www.legislation.gov.uk/ukpga/2002/41/contents>

¹⁸ Human Rights Committee, General Comment No 8, <http://www.unhcr.org/refworld/docid/4538840110.html>

¹⁹ European Court of Human Rights: Convention for the Protection of Human Rights and Fundamental Freedoms, http://www.echr.coe.int/NR/rdonlyres/D5CC24A7-DC13-4318-B457-5C9014916D7A/0/ENG_CONV.pdf

²⁰ *Saadi v. SSHD* [2002] UKHL 41, <http://www.publications.parliament.uk/pa/ld200102/ldjudgmt/jd021031/regina-1.htm>

- 4.20 In 2004, the Refugee Legal Centre challenged the fairness of the fast-track system at Harmondsworth IRC in the case of R (on the application of the Refugee Legal Centre) v Secretary of State for the Home Department).²¹ During this case, it was established before the Court of Appeal that the whole fast track process at the time could take up to five weeks in the case of a refusal which is upheld at all stages. The Court's view was that the fast track process was not inherently unfair, as long as there was a way of recognising the many circumstances whereby the timetable would need lengthening. It suggested that a written 'flexibility' policy catering for the vulnerability of certain applicants would '*afford a necessary assurance that the three-day timetable is in truth a guide and not a straightjacket*'.
- 4.21 Following that case, the Home Office published a policy document indicating how the fast track timetable might be applied '*in accordance with the key principle of ensuring fairness in the asylum determination procedure*'.²²

Circumstances where an extension to the fast track timetable can apply

- 4.22 The Agency's 'flexibility' policy allows for the DFT timetable for interviewing to be extended, usually by 24 hours, if an applicant falls ill, where an applicant would otherwise not be represented by a legal adviser during the asylum interview, where the case owner agrees there has not been sufficient time for an applicant to prepare their case or where an applicant requires an interpreter but one is unavailable or unsuitable. While not specifically designed to enable case owners to consider transferring applicants out of the fast track process, the policy stipulates that where it appears that a claim cannot be considered '*with the requisite degree of fairness within fast track timescale*'; such claims should be removed from the process.

21 The Refugee Legal Centre, R v SSHD [2004] EWCA Civ 1481, <http://www.britishcaselaw.co.uk/the-refugee-legal-centre-r-on-the-application-of-v-secretary-of-state-for-the-home-department-2004-ewca-civ-1481-12-november-2004>

22 Detained Fast Track Process Operational Instruction (April 2005): Flexibility in the Fast Track Process, http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/detention/guidance/Detained_fast_track_process1.pdf?view=Binary

5. Decision to detain people must be lawful

- 5.1 We assessed how the initial decision to detain people in the Detained Fast Track (DFT) reflected the law on detention and the Agency’s own guidance on suitable cases.

Identifying suitable and unsuitable claims

- 5.2 To identify suitable claims, the Agency uses a screening and assessment process. Screening interviews can be carried out by Agency staff at a number of different locations. In our file sample, we found six different locations were used and the majority of applicants were screened whilst already in an Immigration Removal Centre (IRC) or at the designated Asylum Screening Unit (ASU) in Croydon.
- 5.3 Figure 2 sets out the number of people screened according to location.

Figure 2: Number of applicants screened according to location in file sample

Immigration Removal Centre	38	33%
Asylum Screening Unit, Croydon	37	33%
Police station	22	19%
Local Immigration Office	8	7%
Port of entry	6	5%
Prison	1	1%
Other ²³	2	2%
Total	114	100%

- 5.4 Interviews are used to establish a person’s identity, travel route to the UK and the basic facts of their claim. Information from the interview and any supporting evidence available at that time is then referred to a separate team – the Fast Track Intake Unit - where an assessment of suitability for the DFT is made.
- 5.5 Consideration is also given to whether any “operational matters” would affect how quickly a case can be concluded. This includes the likelihood of removing a person from the UK within a reasonable period of time. The Agency then determines the suitability of an application for the DFT. If considered suitable, people are transferred to an IRC for the duration of their claims.

The number of applicants allocated and subsequently taken out of the DFT

- 5.6 We looked at the files of 114 people allocated to the DFT between January and April 2011 to assess how many people were released, at what stage in the process this happened and why they were considered unsuitable. Our findings showed that 34 people²⁴ (30%) were released from detention after various lengths of time. This finding was broadly in line with published figures for 2010 which

²³ A further 2% of people were screened and allocated to the DNSA before transferring to the DFT process

²⁴ A further two people withdrew their asylum claims and sought permission to remain on a different basis. They were consequently released from the DFT.

showed that 35% of people allocated to the fast track were subsequently released from detention and initial findings for the first quarter of 2011 which showed that of 716 people detained, 209 (29%) were taken out of both the DFT and DNSA²⁵.

- 5.7 In terms of when, nine people (27%) were released from detention early on in the process (again broadly in line with published figures for 2010 which showed that 24% were released before a decision had been made) while more than half (21 people, 62%) were released from detention after completion of the appeal stage whilst awaiting removal from the UK. Figure 3 provides a breakdown of the number of people released and at what stage of the DFT process this occurred.

Figure 3: When were people released from detention?		
Before asylum interview	3	9%
Between interview and decision	6	18%
After decision and before all appeal rights exhausted	4	12%
Whilst waiting to be removed from the UK	21	62%
Total	34	100%²⁶

- 5.8 We found a number of reasons why people were released. Most (15 people, 44%) were released in light of health issues, allegations or evidence that they had been tortured or that they had been victims of trafficking. A further 11 people (32%) were released where difficulties in obtaining travel documentation meant the person could not be removed from the UK within a reasonable time.

- 5.9 Figure 4 provides a full breakdown of the reasons.

Figure 4: Why were people released from detention?		
Difficulties obtaining travel documentation	11	32%
Torture and trafficking disclosure	10	29%
Health	5	15%
On-going Judicial Review	2	6%
Other ²⁷	6	17%
Total	34	100%²⁸

The cost implications

- 5.10 The number of people released from the DFT demonstrated that the Agency was responsive to situations where new evidence came to light or where removal was not possible in a reasonable time. In interviews staff and managers stated consistently that they would release people in these circumstances and were not under pressure to keep people in the DFT if they were unsuitable.
- 5.11 However, in addition to the potentially harmful effects on an individual of being detained, there are cost implications where people are allocated to the DFT only to be released at a later date.

²⁵ The Agency did not collate, monitor and assess the data for these two detention based systems separately.

²⁶ Figure adjusted due to rounding.

²⁷ Three applicants were bailed by an immigration judge and in two other cases; the reasons for release were not formally recorded by the Agency. In one other case, an immigration judge ordered that the applicant's case be taken out of the DFT due to its complexity.

²⁸ Figure adjusted due to rounding.

- 5.12 Detention is more than twice as expensive as the accommodation and support costs for people whose claims are being processed in the non-detained asylum system. A single adult male currently costs £102 to keep in detention for one night²⁹. In the non-detained asylum system, the cost ranges from a minimum of £21 to a maximum of £41 in accommodation and cash payment per night, depending on where in the UK a person is allocated³⁰.
- 5.13 The cost of detaining and then releasing the nine people we identified in our sample before their asylum application had been decided was £15,708³¹. If, at the start of the asylum process, these nine people had been successfully identified as unsuitable during screening and assessment, the cost of case managing them in the non-detained asylum system to the point of decision would have been between £5,670 and £11,070³². This would have produced an initial cost saving of between £4,000 and £10,000.

How effective is the screening process in deciding who is allocated to the Detained Fast Track?

The screening process

- 5.14 Any assessment of the suitability of people for detention and the likelihood that a claim could be decided quickly must be done on a case by case basis and screening is utilised to gather information in order for that assessment to take place. However, we found that in practice, the process was standardised to reflect the fact that the majority of applicants were allocated to the non-detained asylum system. Screening was not designed to elicit the most relevant information for DFT assessments to be made.
- 5.15 The assessment team (Fast Track Intake Unit) confirmed during interview that they were reliant on the information gathered at screening to make a decision over allocation to the DFT. Thus, if relevant information was not gathered through screening, there was a risk that people could be wrongly placed in the DFT. Commenting on the adequacy of assessing suitability for the fast track, one member of staff said *“We can only deal with what’s presented to us from the information”*.
- 5.16 The questions asked at screening are therefore essential for the collation of information that could help identify whether someone has a serious medical condition, has been a victim of torture or trafficked to the UK.
- 5.17 Screening officers use a standard questionnaire to record information about a person’s identity, their travel route to the UK and basic information about their family background, personal circumstances, such as health, and their claim (an example of the health, family and basic claim questions can be found at Appendix 3). While this provides a basic set of facts, it is for the individual officer to decide whether to probe more deeply into any of the answers.
- 5.18 This can lead to inconsistency. Two people with previous experience of being detained in the DFT highlighted to us differences between the health questions they were asked at screening. One interviewee told us that specific questions about their health were not addressed at all. The interviewee said *“...I was just asked if I was fit and well to be interviewed”*.
- 5.19 However, the other confirmed that the screening officer asked about their mental and physical health and also raised the sensitive issue of torture in an attempt to elicit further information.

²⁹ Hansard: 10 October 2011, c81W

³⁰ It should be noted that accommodation and cash support costs are based on original figures published by the National Audit Office in November 2008.

³¹ Collectively, these people spent 154 days in detention at a cost of £102 per night per person.

³² This is based on a daily support cost of between £21 and £41 and a decision being made within 30 days.

- 5.20 At a UK port, one immigration officer explained that the subject of torture would not be dealt with at screening as the questionnaire simply asked applicants to provide brief details of the basis of their asylum claim. Another manager we interviewed said that the information captured during screening could be “*sketchy*” and was dependent on the way a screening officer elicited information.
- 5.21 We found that there were tensions between obtaining basic information and the specific evidence needed to assess the suitability of a person and their claim for the DFT. During two observations we made of the screening interviews at the ASU, we found few questions put to the applicants were tailored specifically towards obtaining information that could be used to assess the suitability of a person against the Agency’s DFT policy.
- 5.22 Additionally, both applicants were screened without legal representation. This restricted the Agency’s ability to explore the circumstances surrounding a claim in more depth until the asylum interview itself. During one interview we observed, the screening officer asked the applicant why they were claiming asylum in line with the questionnaire used. However, the applicant was then told to “*keep it brief*” as other people could potentially hear the answer they wished to give.
- 5.23 From our file sample we found two cases where information to potentially exclude the applicants from the DFT was disclosed at the screening interview. One applicant divulged medical issues and was screened twice when the first interview was halted due to the applicant’s health condition. The other applicant claimed to have been sexually abused and trafficked to the UK but this was initially rejected by the Agency. Both were subsequently released from the DFT.
- 5.24 The Agency had conducted its own assessment of a different set of cases and concluded that, of 209 people taken out of the DFT (and DNSA) in the first quarter of 2011, nine people “*might*” have been identified as unsuitable for detention during screening. That said, the Agency believed there was no systemic reason why people unsuitable for detention were being allocated. The Agency’s figures did not breakdown at what point in the process people were taken out or how long people had spent in detention before their cases were considered unsuitable.
- 5.25 In interviews with screening staff, case owners and managers we found mixed views as to the effectiveness of the current system in ensuring that only those suitable were detained in the DFT. In a focus group at one of the IRCs, a case owner described the process as “*basic*” and wanted to see the introduction of more tailored questions that could capture other reasons for claiming asylum without going into too much detail about the claim. Two case owners told us it was not until the asylum interview that complexities could emerge and they would know whether a claim was suitable for DFT.

The screening environment

- 5.26 The screening environment can also affect whether applicants feel able to provide information which affects their suitability for the DFT. We observed the environment at the ASU and assessed the extent to which it was conducive for applicants to provide personal and potentially sensitive information. We also interviewed applicants with experience of the screening process at two UK ports and the ASU and found that the level of privacy afforded to them varied when being interviewed. At the ASU, one applicant was interviewed in the open plan area whilst at the ports; two other applicants confirmed they were taken to private rooms for screening.
- 5.27 The applicants also described the impact the ASU open environment had on how they felt. Three people with previous experience of the DFT said that it made them feel defensive and unable to open up about any health or other personal issues they had. If applicants do not feel able to talk comfortably about personal issues, there is a risk they could be incorrectly allocated to the DFT.

- 5.28 Whilst we discovered that the ASU did have private rooms, we also found they were usually only available on request and were not routinely offered to applicants. We observed two screening interviews. In neither were private facilities offered.³³ If an applicant disclosed information that led the Agency to believe they may have been trafficked to the UK, screening officers would advise applicants they could be interviewed in private. However, unless other adults disclosed information that might suggest vulnerability or explicitly requested privacy, they were interviewed in the public area. Placing the onus on applicants to request privacy was not the right approach. We found it difficult to see how a request could be made when applicants would not necessarily know that private facilities were available.
- 5.29 As a consequence of conducting screening in the open, we found that the close proximity of those waiting to be interviewed from those being interviewed was unacceptable. Applicants waiting sat directly behind those being interviewed and this compromised privacy and confidentiality. There was a risk that any information exchange between the screening officer and the applicant could be heard by those seated directly behind the applicant.
- 5.30 Glass screens separated applicants from officers during the interview and both parties relied on an intercom system to communicate. This increased the risk of confidentiality being compromised.
- 5.31 Alongside the public announcement (PA) system, the intercom was loud and intrusive and could be heard from the back of the waiting area by inspectors. In one interview, there was a significant amount of disturbance behind the applicant as other applicants and staff were free to walk past the window. In the other, the interview was interrupted by the volume of the PA system and the officer had to pause for the announcement to finish before continuing with questions.
- 5.32 The disruption and interruption to both interviews was disrespectful to the applicant and an inefficient way to conduct the interview as frequent stoppages could prolong the length of time it took to screen. Both interviews we observed took more than an hour to complete. One interview took one hour and 18 minutes. In the other, the initial part of the interview took 25 minutes. Approximately 15 minutes was then taken to fingerprint and photograph the applicant before the screening interview resumed. This took approximately 40 minutes to complete.
- 5.33 Screening officers were also aware of the physical limitations of the ASU and agreed that the communication systems used were intrusive. In a focus group, officers reinforced our own observations that as a consequence, it could prove difficult to hear what applicants were saying whilst at the same time, the questions they asked applicants could be heard across the public waiting area.
- 5.34 Screening officers were also aware of the potential positive and negative impact that their formal uniform could have on an applicant's willingness to disclose personal and sensitive information. However, there were conflicting views regarding the use of official UK Border Agency uniforms. In the focus group, some officers pointed to the potential negative impact of a uniform if applicants had previously experienced difficulties with authority in their countries of origin; whilst others felt applicants could be reassured by authority. We do not think there is a definitive answer to this point. However, it is important that officers remain aware that applicants may react differently to the sight of uniforms and that this may affect how comfortable they feel in disclosing personal information which may be used to determine their suitability for the DFT.

Summary

- 5.35 As part of the Agency's reform of the whole asylum process, the Asylum Improvement Project³⁴ recognised the importance of providing adequate screening. In its most recent report on improvements, the Agency said:

³³ As part of the Agency's safeguarding duty, children were interviewed separately and privately at the ASU as a matter of course.

³⁴ UK Border Agency intranet.

“It is important we get it right as the information we gather and the processes we operate...form the foundations for steps later in the process”.

- 5.36 A programme of improvements is planned for 2012. We understand that the focus is to make the ASU more efficient by refurbishing the open plan area, providing more privacy to applicants and encouraging disclosure of the information required in order to make an informed assessment as to where best to allocate applicants for the duration of their claims.
- 5.37 We agree that in gathering the right information at the start of the process, the screening process could increase its efficiency in properly identifying people for the DFT. However, this efficiency drive needs to be applied across all screening locations. Given the volume of people screened outside the ASU in our sample (66%)³⁵, we remain concerned that there was no evidence that the improvements planned for the ASU were being considered for immigration officers to follow, where relevant, at ports, police stations, immigration offices in the regions and for Agency staff who carry out screening in IRCs.
- 5.38 We accept that the screening process, however tailored to the specifics of the DFT, cannot fully prevent unsuitable people from being placed in the DFT. Inevitably, there will be unforeseen circumstances that result in the vulnerability of a person once in detention (e.g. health deterioration) and no amount of attention paid at the start of the process to help identify unsuitability could prevent these instances. However, we believe there is currently too great a risk of the survivors of torture or trafficking being placed in the DFT due to the way screening is carried out. The Agency needs to do more to elicit relevant information in a sensitive way to safeguard these individuals and to reduce the inefficiency of incorrect allocation.

We recommend that the UK Border Agency:

- Reduces the number of people allocated incorrectly to the detained fast-track by enabling and encouraging applicants to disclose personal information at screening interviews affecting their suitability for the Detained Fast Track.

Travel documentation as a relevant factor to consider at screening

- 5.39 Eleven people (32%) in our sample were released as a result of difficulties obtaining travel documentation. This issue is one of the *“operational considerations”* for the Agency in assessing the suitability of a person for the DFT and is clearly a factor which is apparent to the Agency when the person is screened. In practice, the Agency should assess how long it could take to obtain a passport (or other travel document) for an applicant if, following acceptance to the DFT, they are refused asylum and become eligible for removal from the UK. Once a decision to refuse asylum has been made and any appeal determined, removal must be imminent if detention is to remain lawful.
- 5.40 Of the 114 applications in our sample, 58 people (51%) did not have a passport or any other form of travel documentation when they claimed asylum. These people spent, on average, one month longer (31 days) in detention than those who had documents to travel. In terms of nationality, the majority of applicants were from Pakistan (15 people, 26%), China (12 people, 21%) and Nigeria (10 people, 17%).

³⁵ Two people in our file sample were transferred into the Detained Fast Track from the Non-Suspensive Appeals process.

5.41 Figure 5 shows the number of applicants without travel documents who entered DFT, broken down by nationality.

Figure 5: Nationalities of people who were allocated to the DFT without travel documents	
Pakistan	15
China	12
Nigeria	10
Bangladesh	5
Afghanistan	4
Uganda	4
Turkey	2
India	1
Kenya	1
Libya	1
Sierra Leone	1
South Africa	1
Lesotho	1
Total	58

5.42 Of the 58 people detained without documents, 46 people were subsequently refused asylum or withdrew their claims and had no right to remain in the UK at the time of our inspection. Of these, we found that 26 (57%) were removed from the UK. Again, the majority of people were from Pakistan, China and Nigeria. A full breakdown of the nationality of those removed by the Agency is listed in Figure 6.

Figure 6: Nationalities of people removed from UK once travel documentation obtained	
China	6
Nigeria	6
Pakistan	5
Afghanistan	3
Bangladesh	3
Libya	1
Uganda	1
Lesotho	1
Total	26

- 5.43 As Figure 4 (see paragraph 5.9) shows, 11³⁶ people were subsequently taken out of the process where issues in obtaining documentation prolonged detention. Six people were Pakistani nationals, two were Chinese, one person was South African and one was Kenyan. A further eight people without the necessary travel documentation to return to their countries of origin, remained in detention. Two people were Pakistani nationals, three were Chinese, one was Nigerian, one Kenyan and one was from Afghanistan.
- 5.44 The figures show a complex situation which is affected by the individual circumstances and compliance of individuals. However, the cost of detaining and then releasing these people was considerable, given the length of time spent in detention. We calculated that, on average, these people spent 182 days in detention before release at an average cost of £18,564 per person³⁷. The total cost of detaining and releasing all 11 people was £204,204. The Agency needs to consider carefully the likelihood of removing someone quickly if they do not have a travel document when they are screened and decide whether that person is suitable for the DFT.
- 5.45 The issue of travel documentation has arisen in a number of inspections and will be considered in more detail as part of our Inspection Plan for 2012-13.

36 One person was allocated to the DFT with a travel document which subsequently expired whilst awaiting removal from the UK. This person was released from detention.

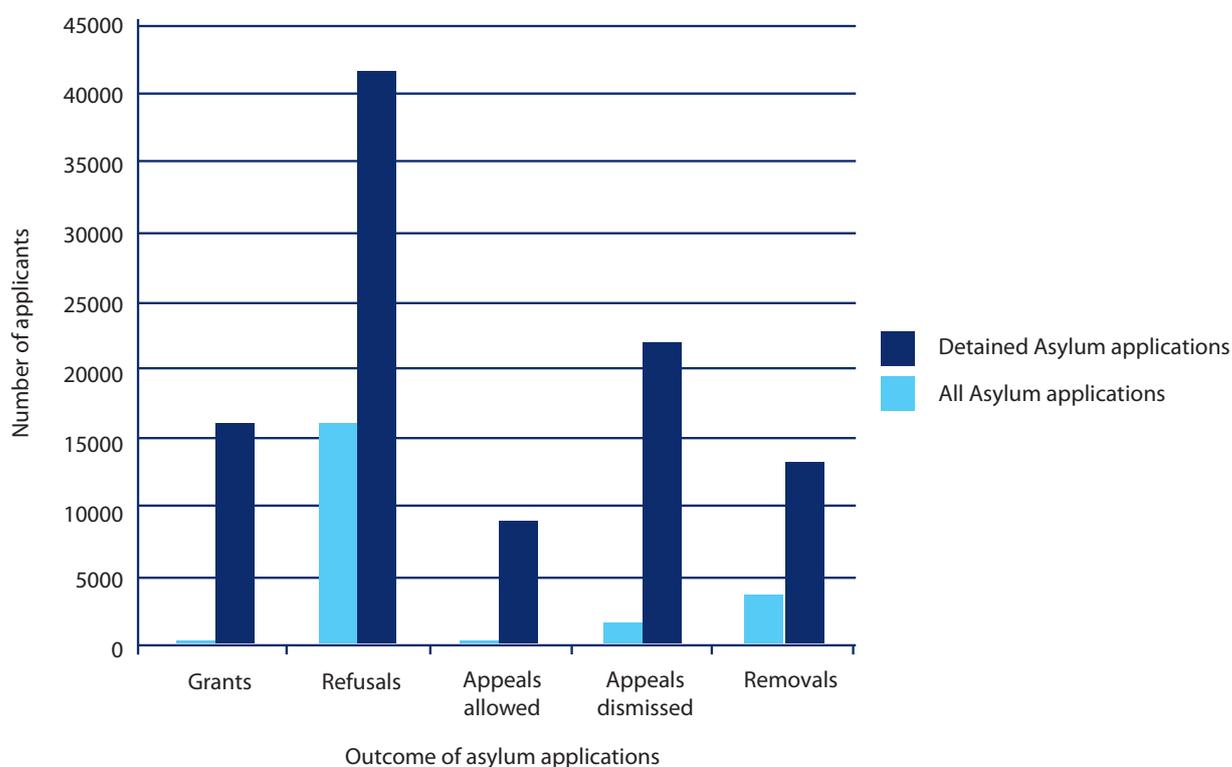
37 The shortest time spent in detention was 57 days at a cost of £5,814, the longest time spent was 388 days at a cost of £39,576.

6. Decisions on the entry stay and removal of people should be taken in accordance with the law and the principles of good administration

Decisions to grant, refuse and remove people in detention

- 6.1 The Agency's published figures differentiate between asylum claims decided in detained and non-detained settings. The detained cases include both the Detained Fast Track (DFT) and the Detained Non-Suspensive Appeals (DNSA) process and these are not differentiated further. Overall, the number of people granted and refused asylum by case owners in detained processes differs significantly from the decisions made in the non-detained system.
- 6.2 Similarly, a disproportionately high number of appeals against the Agency's decision to refuse are dismissed by the on-site independent Immigration Tribunal³⁸ compared to the non-detained system.
- 6.3 Figure 7 sets out the overall outcome of applications in the detained systems (DFT and DNSA) compared with the outcomes of all asylum systems for the reporting years 2008-2010.

Figure 7: Comparative outcomes of applications between detained and non-detained cases



³⁸ In February 2010, Immigration and Asylum Chambers were established in both tiers of the Unified Tribunals framework created by the Tribunals, Courts and Enforcement Act 2007. The new chambers replace the former Asylum and Immigration Tribunal. The DFT appeals process also differs from that which takes place in the non-detained asylum system. Under the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005, the process is also accelerated and a statutory timetable is set out. The Rules state that a person wishing to appeal should provide notice of appeal "not later than two days" after being refused asylum. They then have two days to provide evidence in support of their appeal "not later than two days" after the day on which the Tribunal serves the respondent with the notice of appeal.

- 6.4 We assessed the number of people granted, refused and subsequently removed from the UK from the 114 files we sampled. Our findings mirrored the outcomes published by the Agency for 2010.
- 6.5 In our sample, 98 people were refused and only one person was granted asylum by a case owner³⁹. Of those refused, 90 people appealed against the Agency's original decision and 85 appeals⁴⁰ were heard before Immigration Tribunals based at the IRCs. Only six people (7%) in our sample won their appeals against the Agency. Our figures showed that the dismissed appeal rate was 93%.
- 6.6 Figure 8 shows the comparative outcomes of asylum decisions made between 114 cases in our sample, and all asylum case management systems in 2010.

Figure 8: Comparative outcomes of asylum decisions between our file sample and asylum case management systems.

	File sample (Jan – Apr 2011)		(a) All asylum decisions (2010) (1)	
Decisions by case owners	99		15,326	
Granted	1	1%	4,022	26%
Refusal	98	99%	11,304	74%
Appeals heard	85		8,943	
Decision not known (2)	0	0%	412	5%
Appeals allowed	6	7%	2,251	26%
Appeals dismissed	79	93%	5,899	69%
Removals (3)	56	71%	3,603	61%

(1) Year relates to the period in which the application was made; the initial decisions and appeals within a 'year of application' may have been made in a later year.

(2) Cases with 'Appeals with decision not known' reflect that no confirmation of a decision on the case/appeal had been received when the statistics were compiled on 9 May 2011.

(3) Two people were removed following withdrawal of their claim.

Quality of decisions

- 6.7 The disproportionately high incidence of refusing asylum to people allocated to the DFT has been a concern for human rights and refugee organisations. Whilst the Agency's policy is clear that suitable claims are those that could be decided "*quickly*" and this applied equally to potential refusals and grants, relatively few people have been granted asylum in the UK year on year.
- 6.8 Interviews with case owners and case managers indicated further how infrequently they granted and authorised asylum. In one focus group, two out of six case owners had never granted asylum. Three case owners had each granted one person asylum over the first quarter of 2011 and another was about to grant asylum at the time of our interview. In terms of approving decisions, one of the case managers we interviewed estimated that they had authorised three to five grants between January and July 2011.⁴¹
- 6.9 In terms of the reasons, one manager indicated that there was a correlation between certain groups of people, the type of claim they presented and asylum grants. Where claims were considered

³⁹ Nine people in our file sample were released from the DFT before a decision was made. A further five people withdrew their claims.

⁴⁰ Five appeals were not heard.

⁴¹ DFT case managers are responsible for quality assuring case owner decisions to grant or refuse asylum. The same level of authority is used for both decisions.

“complex”, they would not enter the DFT. Likewise, vulnerable people who claimed asylum (victims of trafficking and torture survivors) and people from countries where there was a ‘General Legal Barrier’⁴² were not allocated and would be more likely to be granted asylum outside DFT. Similarly, another senior manager pointed to the ability of the allocation process to sift out complex asylum claims which left claims where decisions could be made quickly for case owners in the DFT. In interviews, an immigration judge noted that a number of DFT cases involved people who had worked illegally in the UK for a number of years and were less likely to qualify for asylum.

- 6.10 Both senior managers reiterated that the number of appeals dismissed by the independent Tribunal was indicative of high quality decision making by the Agency. The dismissed appeal rate in our file sample (93%) also supported the view that decisions were of high quality. However, it is unclear why the Agency has, in general, associated the granting of asylum with the complexity of the claim. There appears to be no substantive reason why this should be the case. The Agency has not conducted any analysis of this and it would be beneficial to do so. Approaching the issue from another angle, another senior manager confirmed that no analysis had been carried out to determine the number of asylum grants in the non-detained system that could have been suitable for the DFT.

Making a ‘quick’ decision – how fast is the fast track?

- 6.11 The Agency publishes timescales designed to indicate the likely number of days for completion of each stage of the process. Figure 9 compares these indicative timescales with the average timescales from 114 cases we sampled and the timescales for decision making in the non-detained asylum system.

Figure 9: Comparing indicative DFT timescales

Arrival in DFT until:	Indicative timescale (in days)	File sample (average in days) ⁴³	Non detained (in days)
Interview	2	11	NA*
Decision	3	13	30 (61%)**
Appeal to court	4 to 5	18	NA
Appeal hearing	7 to 9	27	NA
Appeal decision received	10 to 12	29	NA
Removal/conclusion	NA	89	183 (55%)***

*NA indicates that there is no published timescale

**Indicates 61% of people learnt outcome of a case owner’s decision within one month (February 2011)

***Indicates 55% of asylum applications were ‘concluded’ within six months (September 2010)

- 6.12 We found a significant contrast between the timescales experienced by the people in our file sample and the published indicative timescales. As Figure 9 shows, the published timescale for an asylum interview was two days after an applicant’s arrival in the DFT. However, we found that the overwhelming majority of people were not interviewed within that time.
- 6.13 Lengthy waiting times between arrival and decision affects the overall time a person can spend in detention. Potentially, this raises questions over the lawfulness of detention and the inefficient use of detention space.

42 A General Legal Barrier to removal refers to a list of countries that have been identified by the Agency as ones that people cannot be forcibly returned to at a particular time. The Agency reviews the list regularly.

43 Figures have been rounded to the nearest day.

Explained and unexplained waiting times in detention

- 6.14 Of the 114 case files, 93% (107) of people waited, on average, 11 days for an interview and only two people were interviewed within the indicative timescales.⁴⁴ The longest period of time a single person spent waiting for an interview was just over one month (33 days). Once interviewed, people received a decision on average, two days later. Four people learnt they had been refused asylum within the three to four day timescale. None of the people in our sample experienced the indicative timescale for each part of the fast track process.
- 6.15 The length of time spent in detention before a decision is made and the requirement for flexibility to address individual circumstances are crucial in assessing the lawfulness of detention. Despite this, information explaining why the indicative timescales were not met was absent on both the physical file and Agency database in the overwhelming majority of cases we considered
- 6.16 We found that neither the Agency's database nor the physical file indicated why the interviews had been scheduled outside of the published indicative timescales. However, we did find that 16 people experienced further delays to their asylum interviews, and partial explanations were recorded on the Agency's database.
- 6.17 In 13 cases, the interview delay was due to the individual circumstances of the applicant. In six of these, the interview was suspended due to the applicant's health. In four other cases, the applicant changed legal representation; in one case the applicant withdrew their claim whilst another, previously part of his wife's asylum claim, then claimed in his own right. One other delay was due to an applicant requesting another interpreter for their interview. In two other cases, the delays were due to a referral being made to another asylum team⁴⁵ to confirm ownership of the claim and to a contractor at one IRC failing to escort the applicant to the interview on time.
- 6.18 Interviews with case owners and managers indicated that the DFT was potentially working to a different timescale on a routine basis. One manager indicated that the timescale for interviews was a guide. Another manager confirmed that whilst the timescale was not generally met, people were usually interviewed within three to four days and this was "*manageable*". We were told that extensions to the timescale were a characteristic of the DFT and commonly provided for solicitors, case owners and applicants on request in order to help them prepare.
- 6.19 Not all case owners worked to the same timescales. In one focus group, case owners confirmed that the timescales they worked to were usually outside of those published. We were told that people should be interviewed within seven days of arrival. If this was not feasible, cases would be referred to case managers and if waiting times exceeded ten days, case owners would notify applicants. However, in another focus group, case owners said that the two day timescale for preparing a case was reasonable.
- 6.20 Resources could also affect the timelines of progressing claims to interview. In one focus group, we learnt that the DFT operated three interview slots per day covering the morning, afternoon and early evening. However, competing priorities for rooms could delay interviews as the case owners shared these with the police, detention services and solicitors conducting legal visits. Within the DFT, one manager told us that if a morning interview ran over time, it could impact on the afternoon and evening schedule and affect the timescales.
- 6.21 We also found that, where waiting times had reached an unmanageable level, allocation to the DFT was temporarily suspended. This had occurred in March 2011. A senior manager indicated that although there was no set time at which the Agency could say that detention was unlawful, it would be difficult to justify detaining a person for two weeks without a decision.

⁴⁴ A further three people were released before a decision over their asylum claim was made. One person was transferred in to the DFT from the DNSA detained asylum systems after a refusal had already been made on their claim. One other person claimed asylum as a dependent of his wife before claiming asylum in his own right.

⁴⁵ The case was referred to the Third Country Unit asylum team and was referred back to the DFT as suitable for fast track.

Cost implications

- 6.22 The length of time before an interview and decision has cost implications. The total cost of detaining the 109 people up to the point of interview in our sample was £128,928. If the published timescales had been met, the total cost of detaining this group up to the point of interview would have been £22,236. The additional time identified in our sample cost the Agency a further £106,692.
- 6.23 Comparatively, there are no indicative timescales for conducting asylum interviews in the non-detained system. That said, we calculated that if the same number of people were interviewed, on average, two weeks after they were allocated a case owner, the cost in asylum support would be significantly less at between £32,046 and £62,566. Moreover, if 109 people were not interviewed until day 30 of their claim, the support costs would rise to between £68,670 and £134,070. At the maximum end of support costs, waiting times in the non-detained system would be only slightly more expensive than those in the DFT.
- 6.24 We do accept that the published timescale is a guide for the Agency and not a rigid schedule. In addition, it is important, in light of case law, that the Agency responds flexibly to requests from applicants for more time to prepare their case or to seek legal advice. However, the absence of information makes it impossible to assess fully the reasons why the indicative timescales are being routinely exceeded and it is essential that these reasons are now recorded in each case. Without this the Agency cannot demonstrate either that it is using detention space efficiently or that it is addressing the individual circumstances of applicants. At the very least, the Agency must reflect the reality of the timescales by amending its published guidance.

We recommend that the UK Border Agency:

- Increases the accuracy of its published guidance by changing its indicative timescales for interviews and decisions in line with the average time taken.
- Increases assurance that detention is lawful and that processes are efficient by recording in each case the reasons why any timescales for interviews and decisions are not met.

The efficiency and effectiveness of removing people with no right to remain in the UK

- 6.25 Our file sample showed that of the 79 people with no right to remain, 58 (73%) were removed from the UK.
- 6.26 Of the remaining 21 people, 18 had yet to be removed due to difficulties obtaining travel documentation.⁴⁶ One person was due to leave shortly under the Voluntary Assisted Returns and Reintegration Programme (VARRP) and in the remaining two cases, the removals had been postponed due to the applicant's poor health in one case and the disruptive behaviour of the applicant in the other.
- 6.27 These findings showed that the DFT makes a highly significant contribution to the overall number of people removed from the UK each year. Senior managers indicated that around 30% of all removals came from within the DFT. The most recent figures published by the Agency supported their views.
- 6.28 Figure 10 shows the total number of applications made in 2010. It also sets out the number of people removed having been detained for the duration of their claims, compared to the total number of people removed across all asylum systems.

⁴⁶ 11 people were released from detention (see Figure 3).

Figure 10: Total number of applications made in 2010.

	Number of applications in 2010	Number of people refused asylum in 2010	Number of people removed in 2010	% of refused people removed**
Detained	2,571	1,748	1,629	93%
All asylum applications	17,916	11,304	3,603	31%

**The Agency's published figures for the outcome of all asylum applications in 2010 did not break down the number of people eligible for removal from those refused asylum.

Removals within a “reasonable period” of time

- 6.29 Our sample of 58 people showed that 88 days was the average length of time spent in detention from arrival to removal. We found one person spent just 34 days in detention before being removed. However, not all people were removed quickly. In another case, the person remained in detention for almost one year (355 days) before being removed by the Agency.
- 6.30 That said, we found that 98% of people were removed within six months. Comparatively, the number of cases ‘concluded’⁴⁷ by the Agency in all five asylum areas was 54% within six months.⁴⁸
- 6.31 Figure 11 sets out the time taken to remove the 58 people in our sample.

Figure 11: Percentage of people removed within three, six and twelve months

0-3 months	36	62% ⁴⁹
3-6 months	20	35%
6-12 months	2	3%
Total	58	100%

- 6.32 The DFT is designed to remove people as quickly as possible where their claim has been unsuccessful. The results of our file sample clearly showed that DFT-related removals were expedited quickly compared to those where people had not been detained for the duration of their claims. On average, it took the Agency half the length of time it would take in the community to remove a person who was no longer permitted to stay in the UK and the majority of people (62%) were removed within three months.
- 6.33 However, it took longer than three months to remove 38% of people. While the individual circumstances of each case will affect the timescale for removal, this is a large proportion given the intended speed of the DFT process. Where the process works in the way intended, the overall costs are low. For example, the cost of detention was £3,468 for the person removed after 34 days. However, the detention costs for the person removed after 355 days rose to £36,210.
- 6.34 The Agency needs to focus rigorously on encouraging voluntary return and, if necessary, enforcing removal to ensure the DFT works as intended in removing people quickly. At present there are too many people remaining too long in detention before being removed.

47 According to the Agency, a case is ‘concluded’ if an individual has been granted permission to remain in the UK, is removed from the UK or has removed their claim.

48 Asylum Performance Measures 2010, UK Border Agency management information.

49 Figure adjusted due to rounding

7. Complaints procedures should be in accordance with the recognised principles of complaints handling

- 7.1 Good complaints handling is set out in the Parliamentary and Health Service Ombudsman's principles⁵⁰ for all public services and the Agency's own guidance on complaints generally reflects these principles. We expect the Agency to provide easily accessible information about how to make a complaint. A person wishing to complain should also be made aware of what they can expect, including how long they can expect to wait before receiving a reply, likely remedies and how, when and where to take things further if they are not satisfied with the initial outcome.

Number and nature of complaints made by people in the DFT process

- 7.2 According to the Agency's own figures, complaints from applicants in the DFT are extremely low as a proportion of the total number received. Between 2008 and 2010, the Agency received seven complaints from people in the DFT⁵¹. Six complaints fell within the Agency's category of 'service complaints' and one was categorised as a minor misconduct complaint.
- 7.3 None of the complaints were substantiated. From evidence we requested, the Agency confirmed that six of the seven complainants received a reply but could not be certain that a reply, explaining the outcome, had been sent to the other complainant.
- 7.4 To place complaints from the DFT into context, figures published by the Agency for the reporting year 2010-11 showed the total number of complaints received across all the services it provides was 11,840⁵². This included service, minor misconduct and serious misconduct complaints.
- 7.5 From the 114 files we sampled, we identified four complaints made against the Agency by DFT applicants. This formed 4% of all the applications we reviewed between January and April 2011. Again, the nature of the complaints reflected those that the Agency would categorise as either service or minor misconduct.
- 7.6 We found evidence on the files that three of the complaints were not substantiated but the outcome of the fourth complaint had not been recorded. That said, we were pleased to see the minor misconduct complaint had been formerly referred to the police and the outcome recorded⁵³.
- 7.7 The number of complaints in our sample, and in the Agency's records for the last three years, was too low to draw any significant conclusions about the quality of complaints handling. However, it is essential that all outcomes of complaints are recorded on the relevant case file and it was unacceptable to find even one case where this had not happened.

50 <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>

51 UK Border Agency management information.

52 UK Border Agency management information.

53 This practice reflected a recommendation made in our thematic inspection of complaints handling that all complaints where a criminal offence had been alleged should be referred to the police:

http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Lessons-to-learn_The-UK-Border-Agencys-handling-of-complaints-and-MPs-correspondence.pdf

Identification of complaints

- 7.8 The Agency has clear guidance setting out its definition of a complaint as “*an expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff, or its contractors*”. However, there was no universal understanding of what constituted a complaint when we interviewed staff. The issue of complaints recognition was also highlighted in both our thematic inspection of complaints handling and the thematic inspection of the deportation of foreign national prisoners⁵⁴.
- 7.9 The Agency’s definition is broad. Nevertheless, the majority of staff we spoke to about what constituted an ‘expression of dissatisfaction’ indicated that complaints were rarely an addition to their case work. One member of staff told us “*99.9% of complaints are not complaints*”.
- 7.10 As a result, we believe that potentially cases falling within the Agency’s own definition of ‘complaint’ may not be identified, considered or responded to in accordance with the Agency’s processes for handling complaints.

Information about how to make a complaint

- 7.11 From the observations we made at the ASU in Croydon, we were not satisfied that access to the Agency’s complaints procedure was adequate. In terms of the information available, we found only one poster which was in the reception area of the screening unit where people’s belongings were security scanned. Whilst this clearly explained the complaints procedure, the poster was in English only. It was also difficult to see how and where an applicant could make a complaint. Both ‘customer feedback’ and ‘suggestions’ boxes were clearly marked close to where applicants were waiting but most importantly, we found no complaints forms on display and no clear place to then post a complaint. The information on display did not differentiate clearly between ‘feedback’, ‘suggestions’ and ‘complaints’.
- 7.12 Whilst we did not observe the communal areas in the IRCs, evidence provided by the Agency stated that complaints forms were readily available for applicants in detention and could be posted in complaints boxes which were emptied daily. The forms were then sent to the Agency’s central complaints department before being allocated to an appropriate person to investigate. This process was confirmed by one of the managers we interviewed at the IRC.
- 7.13 The Agency also told us that as part of an applicant’s induction to the DFT, information about how to complain was included in the pack. However, the pack we received when conducting our fieldwork contained nothing about how to make a complaint.
- 7.14 We recognise that the Agency’s ‘public-facing’ locations such as the ASU are not the only places where people could obtain information about making a complaint. Information is available elsewhere including on the Agency’s website. However, if access is not clear and made simple, asylum applicants could be deterred from making complaints about the DFT process or the conduct of staff or contractors whilst their claims are being decided and this needs to be rectified.
- 7.15 There are obvious benefits to having an inclusive complaints system both for the Agency’s reputation and for the satisfaction of those the Agency comes into contact with. Good complaints handling provides the opportunity for redress in individual cases. Importantly, the investigation and subsequent outcomes of complaints can also highlight where the Agency is complying with published standards and where it needs to learn from any mistakes made.

⁵⁴ <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Thematic-inspection-report-of-how-the-Agency-manages-Foreign-National-Prisoners.pdf>

7.16 In the ASU, the availability of material relating to how to make a complaint was both inadequate and confusing. The Asylum Improvement Project provides an early opportunity for the Agency to increase complaints promotion and to ensure that the promotion of and access to making a complaint is maintained.

We recommend that the UK Border Agency:

- Improves its complaints handling by informing applicants at all screening locations of how they can make a complaint; and by ensuring that all complaints are recorded and resolved.

8. All people should be treated with dignity and respect and without discrimination in accordance with the law

- 8.1 We expect the Agency to be open and informative about the services it provides. Applicants should be told about their rights and their responsibilities when making a claim for asylum. The Agency should also provide clear and accurate information about what applicants can expect throughout the duration of their claim.

Sharing information with applicants about what happens next

- 8.2 We set out in the background that asylum applications in the UK were divided into five different case-working areas. When making a claim, applicants should receive adequate and accurate information about how and where their applications would be managed by the Agency. They should also be informed of their rights and responsibilities when making a claim.
- 8.3 We were advised that a Point of Claim leaflet should be made available before or at screening. This sets out what applicants need for the screening process. It also explains the 'next steps' for asylum applications 'routed' to regional case owners and has a useful breakdown of what it means to be granted or refused asylum.⁵⁵ Whilst the leaflet does state that the Agency may "*detain you*", no further information is provided to enable an applicant to understand why, where or roughly for how long. We found that the information given during screening did not fully reflect what could happen to an applicant and their claim either in terms of timescales or where their claim could be managed. At no point during our observation of the ASU were applicants provided with information about the case-working areas (detained and non-detained) that could be most relevant to them.
- 8.4 We saw no leaflets or posters which set out the regional and detained processes for managing asylum claims. In neither of the interviews was it explained to applicants that they could be detained in an IRC or allocated to a region in the UK for the duration of claims. In reality, an applicant could be interviewed, fingerprinted, photographed and not be made aware that they could be detained or placed in another part of the country until after an assessment had been made.
- 8.5 We did observe applicants being told what to expect from the interview and screening officers made it clear that details about their claim for asylum would be dealt with "*at a later interview*". Applicants were also told that if their claim fell outside the responsibility of the UK, they would be transferred to another country.⁵⁶ Appropriately, applicants were then informed of their responsibility to answer "*fully and truthfully*" as false statements could be an immigration offence and make them liable to prosecution and imprisonment. Whilst this adequately explained what could happen in the event that applicants did not comply with the process, similar attention to what could happen if applications were considered eligible for either detained or non-detained allocation was not provided.
- 8.6 We spoke to applicants and ex-applicants with previous experience of the DFT about the information they received before their first day in detention. Six people said they received no information about the DFT. A further three ex-applicants explained that in addition to no information, they were also given no explanation about why they had been detained or how long they could realistically

⁵⁵ The leaflet states that asylum claims made by children are considered under a different process. It also provides details of asylum applications suitable for regional case working areas and states that an applicant or their case could be sent to another part of the UK to be considered.

⁵⁶ Under the Dublin Convention applicants must make an application for asylum in the first EU country that they enter. If a travel route shows that an applicant entered the UK via an EU country, the Agency can transfer the applicant to that country for their asylum claim to be considered.

be detained for. All three applicants added that the process of being detained made them feel as if they had done something wrong. One applicant was told they were being detained and that their case would be managed under the DFT process for a few days. However, this applicant was not told exactly where they were going.

- 8.7 Additionally, we found that the overwhelming majority of public information available about asylum was written with non-detained allocation to a case owner in mind. The Agency's website did provide useful information for applicants about what would happen at the ASU, what documents to bring to the screening interview, rights and responsibilities throughout the asylum process and details of the assisted voluntary returns programme⁵⁷. For applicants who make an appointment at the ASU, a confirmation letter from the Agency also makes reference to the DFT and states; "*You should be aware that depending upon your circumstances you may be suitable for the detained fast track system*". The website also referred to the Agency's power to detain people to consider their asylum applications⁵⁸ and to remove them from the UK if they were refused asylum. However, there was no information about the DFT as a specific asylum process.
- 8.8 Senior managers acknowledged in interviews that the possibility of being allocated to the DFT was not mentioned to applicants at the screening interview. They believed that doing so would risk individuals becoming worried or disruptive and that the safer approach was to avoid any reference to detention at this stage.
- 8.9 While it is essential that any safety issues are considered, we do not think it is acceptable for people to be potentially unaware or for some people to be more aware than others that they may be detained in order for their claim to be decided. Information about the asylum process is available via the Agency's website and their leaflet. We note that detention is mentioned but the Agency offers no clear and accurate information about what this means for applicants. Whilst we acknowledge that a pre-appointment letter also tells applicants that they may be considered suitable for the Detained Fast Track, this is only sent to those who claim asylum and who will be screened at the ASU (33% of our file sample). Informing all people who claim asylum at any port, police station, immigration removal centre, immigration office or at the ASU in Croydon of the different locations and timescales for considering their claims provides much greater transparency and is fairer to applicants.

We recommend that the UK Border Agency:

- Improves its treatment of applicants by providing information at screening about how asylum claims are managed, including the possibility of allocation to the Detained Fast Track.

Induction into DFT and understanding the DFT process

- 8.10 Once applicants were placed in detention, we found evidence that they were more likely to receive information specifically about the DFT. However, the information provided at induction was not as accurate and reflective of the process as it could be.
- 8.11 We observed the induction process⁵⁹ and examined a copy of the information pack that applicants received in one of the IRCs. The pack consisted of a booklet explaining the asylum procedures under the DFT and a visual map of the process. This was a helpful at-a-glance chart which set out the basic steps an application would take. The pack also contained an application form for the assisted

⁵⁷ It should be noted that the *Point of Claim* leaflet was not available on the Agency's website.

⁵⁸ Under 'The Asylum Process', the Agency's web site states 'We may detain you while we consider your application'.
<http://www.ukba.homeoffice.gov.uk/asylum/process/>

⁵⁹ Induction to Immigration Removal Centres was carried out separately by contracted staff and usually took place prior to the induction process for UKBA's Detained Fast Track. Her Majesty's Inspectorate of Prisons reported in 2009 and 2010 that at both Harmondsworth and Yarl's Wood IRCs, induction talks were short and not always in a language that people could understand. However, written information about the IRCs was available in multiple languages.

voluntary returns programme and an Agency commitment of service statement. Helpfully, applicants were also provided with details of the fast track advice centre or surgery and its opening times.

- 8.12 Whilst basic information about the DFT process was provided, we found that the timescales given for each stage of a case (e.g. interview, case owner decision, appeal) were unrealistic. We have mentioned elsewhere that none of the 114 cases we sampled met all the indicative timescales that cases where quick decisions may be made were initially expected to meet. Our evidence showed that only four applicants learnt whether they had been granted or refused asylum within four days of being in the DFT. However, the pack continued to provide applicants with basic details of what to expect on each day for the first nine days of a claim.
- 8.13 In a focus group at one of the IRCs, a case owner agreed that information in the pack should be changed to represent the practicalities of interviewing and informing applicants of the outcome. We were told “...*they sit in detention for five days not knowing what is happening*”.
- 8.14 The case owner added that realistic information about the DFT timescales would better manage an applicant’s expectations whilst in detention. Most of the information in the pack stated that decisions to grant or refused asylum would be taken as soon as possible after the interview. This was supported by our file sample where, on average, applicants waited two days to learn of the initial outcome. However, more detail was then provided on what applicants could expect after a refusal had been made compared with a decision to grant protection and we felt this was imbalanced. For instance, whilst basic information about the appeal process was set out, there was nothing to indicate how immediately an applicant would be released from detention if granted protection. Nor was there any basic information about the support an applicant could then get to help them integrate into the community.
- 8.15 We accept that once in detention, there were other areas where applicants could obtain information about the process. In both IRCs, the Agency ran surgeries, which were effectively advice centres staffed by fast track representatives. In one of the centres, the Independent Monitoring Board (IMB)⁶⁰ reported favourably about the impact that weekday advice centres had on enabling applicants to get answers to routine questions about the DFT and its timescales. The report also said that the surgery provided additional help to applicants in understanding immigration paperwork.⁶¹
- 8.16 As we set out at the beginning of this chapter, 33% of applicants in our sample were already in IRCs when they claimed asylum and the same percentage were screened at the ASU. Depending on how soon after arrival applicants are inducted, they could be tired after a lengthy journey, disorientated, confused or worried when receiving information about what happens next. The Agency should ensure that information is simple to understand, accurate and balanced so that applicants know right from the start what they can expect to happen if granted or refused asylum whilst in detention.

60 The IMB’s role is to monitor local prisons or removal centre and ensure that standards of care and decency are maintained.

61 IMB Harmondsworth IRC Annual Report 2010.

9. Functions should be carried out having regard to the need to safeguard and promote the welfare of children

- 9.1 The Agency is required to have regard to the need to safeguard and promote the welfare of children in carrying out its function.⁶² In practice, this means that the Agency must take account of safeguarding and welfare issues when deciding who should be allocated to the DFT and in the overall management of asylum applications made by children or families with dependent children.⁶³
- 9.2 Irrespective of recent changes to government policy on the detention of children,⁶⁴ the Agency's policy is clear that families with dependent children and children making a claim for asylum in their own right should not normally be detained in the DFT.
- 9.3 From the results of our file sample, we were satisfied that the Agency's policy had been followed and had been effective in safeguarding families with dependent children and unaccompanied asylum seeking children from entering DFT. None of the applicants in the 114 cases we sampled were people with dependent children, nor were there any applications made by children.

Assessing age to safeguard children from detention

- 9.4 One of the difficulties faced by the Agency is how to determine the age of an applicant who cannot prove their age but claims to be under 18 years old. To safeguard children from being treated as adults, the Agency's policy is again explicit that all applicants should be regarded as children in the first instance (and thus, excluded from DFT), unless their physical appearance and behaviour "*strongly suggests*" that they are "*significantly*" over 18.
- 9.5 The Agency's own guidelines to staff at the point of screening stipulate that first impressions of an applicant's age should be followed by a second opinion from a senior member of staff before a referral to the DFT or another asylum application path can be made. The proviso that an applicant should appear significantly over 18 years old is designed to mitigate this risk but judgements on appearances may still lead to mistakes, the consequence of which can be detention.
- 9.6 If new evidence comes to light, the assessment of age should then be an ongoing consideration for the Agency to determine the most appropriate way of dealing with an applicant. Where their initial assessment results in the detention of an age dispute applicant and the Agency obtains further evidence indicating that an applicant may be a child, the applicant should then be referred for a local authority age assessment.⁶⁵
- 9.7 In our file sample there were no cases where applicants claimed to be children. However, the Agency's data for the last three reporting years showed that, between July 2009 and February 2011, 16 asylum applicants had initially been assessed by the Agency as adults and were allocated to the

62 Section 55 of the Borders, Citizenship and Immigration Act 2009 which came into effect on 2 November 2009. Effectively, the duty replaced an earlier statutory Code of Practice and brought the Agency in line with law enforcement agencies and other public bodies who already had a similar legal obligation under Section 11 of the Children Act 2004.

63 A child is defined as a person under the age of 18 which reflects the UN Convention on the rights of the child and Section 55.

64 The Government announced that it would effectively end the use of IRCs to detain failed asylum seeking families with children for the purposes of removal in June 2010. Our own thematic report into the removal of families from the UK helped to inform the government review of families and detention for immigration purposes. Published in December 2010, the review announced plans to hold families with children in more 'family-friendly' secure accommodation outside of the IRC estate whilst awaiting removal from the UK.

65 Known as a 'Merton Complaint' report. This is an age assessment report carried out independently by social services departments in line with legal guidelines. The guidelines were set out following the case of [B v London Borough of Merton \[2003\] EWHC 1689 \(Admin\)](#).

DFT. Once in detention, all of the applicants were released from the DFT at various stages of their asylum applications.

- 9.8 Some of the complexities around age dispute applications for asylum were demonstrated by the Agency's data. Their evidence showed that most of the 16 applicants, initially assessed on appearance as significantly over 18, claimed to be under 18 and did so before their asylum interview.⁶⁶ In 81% of cases (13 people), the applicant was referred for a Local Authority age assessment.
- 9.9 Where these were not immediately available, the Agency consistently released applicants pending the outcome of local authority reports. The Agency's data was inconclusive as not all report outcomes were known or recorded on the evidence supplied to the inspection team. Of those that were, 38% (six people) were assessed by local authorities as over 18 and 19% (three people) were considered children.
- 9.10 Whilst six applicants were considered adults, we remain satisfied that in releasing all applicants, the Agency had considered the consequences of delays in making a "quick" asylum decision and in prolonging detention and on balance, had made an appropriate decision given its safeguarding responsibilities to children.
- 9.11 Age assessment raises difficult issues. Whilst DFT policy is clear and guidance to staff is explicit and compliments the principles in safeguarding legislation, applicants claiming to be and subsequently assessed as under 18 years old can and do still end up in detention. We welcome the Agency's approach to release, pending age confirmation. We intend to conduct a more detailed inspection of the Agency's approach to age assessment at a later date.

⁶⁶ Not all applicants claimed to be children at screening, or once allocated to the DFT. In one 'age dispute' case, the applicant's passport stated they were 20 years old. The applicant also claimed to be 20 years old. UKBA released the applicant from the DFT on the basis that they appeared younger and an age assessment report later confirmed the applicant was under the age of 18.

10. Personal data should be treated and stored securely in accordance with the relevant legislation and regulations

- 10.1 The Agency's files relating to people in the DFT contain personal data and in some cases sensitive personal data such as the health of an individual as well as details of claims for asylum. In order to comply with its obligations under the Data Protection Act (DPA), the Agency needs to process such information fairly and lawfully. In particular it needs to take appropriate technical and organisational measures to prevent unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 10.2 The UK Border Agency's guidance to staff mirrors the legislative duties placed upon them as a public body.⁶⁷ We assessed how far the files maintained by the Agency reflected both the duty and the guidance given to staff to comply with the eight rules of good information handling.⁶⁸

The processing of personal data

- 10.3 In the majority of the 114 files we sampled, we saw no evidence that personal data had been incorrectly processed. However in six cases (5%), we found files which contained information that related to a person entirely unrelated to the applicant with no explanation as to why the information was on the file. In another, we found that whilst all the information was stored on the relevant file, some of the personal data held was challenged by the applicant as incorrect.
- 10.4 Figure 12 provides an overview of the above cases.

No of cases	
3	Where information was not stored on the correct file. They included: <ul style="list-style-type: none">• correspondence for one applicant on another's file;• details of the removal of an applicant from the UK on the wrong file; and• an audit of actions taken on one asylum case which did not correspond with the files they were attached to.
2	Where information relating to the nationality of applicants was stored on the personal files of another. In one of these cases we found an entire asylum application belonging to an Indian national was stored within the file of a Georgian national.
1	Where incorrect recording of an applicant's personal address and marital status was found.

⁶⁷ Information Management Information Sheet 11, DPA Guide 2010, UKBA intranet.

⁶⁸ The rules or 'principles' are set out in the Data Protection Act 1998 and have been subsumed into the UK Border Agency's guidance to staff.

- 10.5 The importance of adhering to the good information handling principles is demonstrated by considering the potential impact of inadequate data management. Recording and storing information incorrectly may have negative consequences for both the Agency and the applicant. Case owners are heavily reliant on the personal details of applicants and evidence gathered by applicants to support their claims for asylum. Incorrect data recording and storage hinders the Agency's ability to easily access and then use relevant, up to date information correctly in order to decide asylum applications fairly. As a result, there is the potential for asylum decisions, which can have significant implications for an individual, to be made on the basis of inaccurate and/or insufficient data.
- 10.6 Additionally, inappropriate data management may impede the Agency's ability to properly respond to an applicant's right to access personal data held about them whilst their asylum claim is being processed. Under Principle 6 of the 1998 Act, applicants have a legal right to obtain copies of information held about them upon request. If personal information is wrongly stored or inaccurate, it could be either temporarily or permanently lost when a request is made and cause unnecessary distress or inconvenience to applicants.

File management

- 10.7 In general, applicants' files were kept in relatively good condition when compared to the files we sampled during our thematic inspection concerning foreign national prisoners. We found less duplication of documents and a more logical order to the content of many of the files we saw. Whilst on balance, file keeping in DFT was of a better standard than those we have sampled elsewhere, we repeat in part, the recommendation we have made in our previous reports.

We recommend that the UK Border Agency:

- Safeguards the personal information of applicants by ensuring files contain accurate personal data relevant only to the subject of that file.

11. The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.

Risks to the efficiency and effectiveness of the UK Border Agency should be identified, monitored and mitigated.

Cost and benefits

- 11.1 The National Audit Office (NAO) report 'Management of asylum applications by the UK Border Agency' published in January 2009 recommended that the Agency routinely analyse the costs per case across a range of types of asylum applicant. It said that collation and analysis would enable the Agency to better understand, plan and prioritise its workload.
- 11.2 Despite this, the Agency confirmed that it had not carried out this analysis. We asked for cost comparisons between the DFT and non-detained asylum cases but the Agency could not provide this information.
- 11.3 There would be a real advantage in the Agency collecting this information and it is disappointing that no action has been taken on this issue since the NAO report. There remains a view strongly expressed by staff and managers in the Agency that the DFT is working efficiently. However, as we have indicated, the process is significantly slower than the indicative timescales and people continue to be released because they are subsequently found to be unsuitable for the DFT. If the Agency collected and analysed information of this type, it could begin to assess itself the effectiveness of the DFT and compare this with cases managed in the community. This would help ensure that people are allocated properly, that cases are progressed quickly and that people are not detained where it is not cost-effective to do so.

Effective and efficient use of the DFT

- 11.4 We have highlighted the number of people released from the DFT when they are identified as unsuitable for detention. However, the Agency has not carried out an assessment of how many cases currently managed in the community could, in line with published guidance, have been allocated to the DFT. While it is absolutely right for the Agency to err on the side of caution if there is any doubt about a person's suitability, we would expect analysis to be carried out to ensure that detention space is being used as effectively as possible. There should be a very clear justification as to why one individual has been allocated to the DFT and another has not. At present, the Agency simply does not know whether it could be making better use of the facilities it has in the DFT and whether it is ensuring that all applicants are treated fairly.

11.5 Senior managers indicated that the DFT forms an integral part of the Agency's overall management of asylum claims due to the fact that over one-third of failed asylum seekers are removed via the DFT and the Tribunal upholds the overwhelming majority of decisions taken. However, we would again have expected to see greater analysis of whether the same or similar results could be achieved without the need for detention before a decision is made. This is particularly important given that the timescales within the DFT for interview and decision are rarely met. Work should be carried out to identify whether cases where a quick decision may be made could be decided in a similar timescale in the community.

Data collation, quality and publication

11.6 Despite the impact on individuals of being detained and the importance the Agency attaches to the DFT, it does not collate, analyse and publish data to demonstrate whether the DFT is efficient and effective. The DFT relies on speed and yet we found no evidence that the time between arrival, interview and decision was monitored or published. Greater transparency would provide more assurance about the operation of the DFT and the Agency needs to do more to publicly highlight what is happening.

We recommend that the UK Border Agency:

- Increases public awareness of the Detained Fast Track by publishing information on the quality and timeliness of allocation, decisions and removals with associated costs.
- Increases the efficient use of detention space by assessing whether claims currently managed in the Detained Fast Track can be decided quickly without the need for detention; and whether cases currently managed by regional asylum teams are suitable for the Detained Fast Track.

Appendix 1

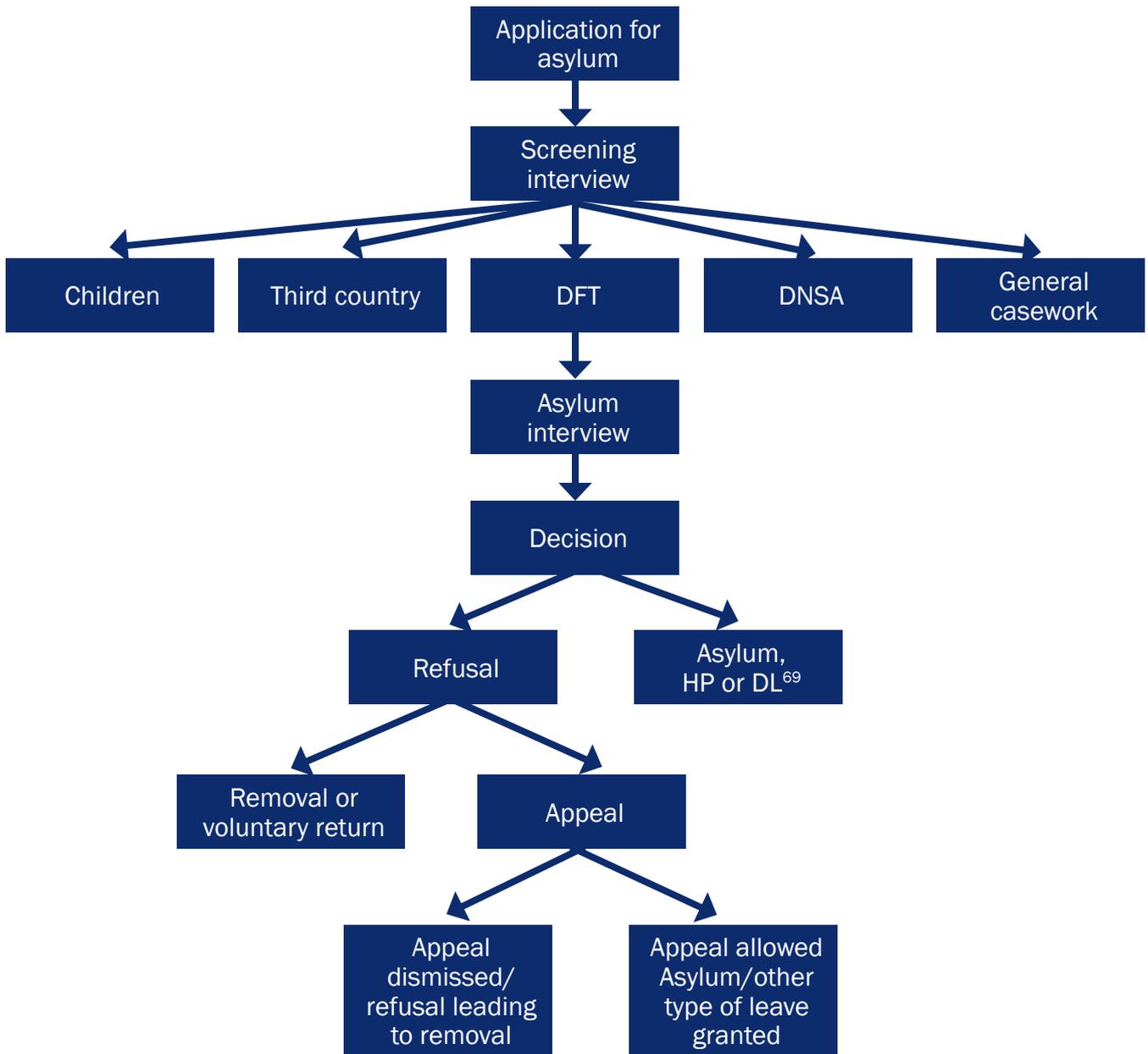
Inspection Criteria

The criteria for this inspection were:

- Decisions on the entry stay and removal of people should be taken in accordance with the law and the principles of good administration.
- Complaints procedures should be in accordance with the recognised principles of complaints handling.
- All people should be treated with dignity and respect and without discrimination in accordance with the law.
- Decisions to detain people must be lawful.
- Functions should be carried out having regard to the need to safeguard and promote the welfare of children.
- Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.
- The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.
- Risks to the efficiency and effectiveness of the UK Border Agency should be identified, monitored and mitigated.

Appendix 2

The process for allocating asylum claims to the Detained Fast Track



⁶⁹ Humanitarian Protection (HP) or Discretionary Leave (DL)

Appendix 3

Screening Questionnaire

PART THREE: Health

Please read to the applicant:
 It is important that you answer the following questions and disclose any relevant information relating to your health (including any contagious diseases) at the earliest stage so that we can ensure you are able to access the correct medical treatment throughout the process of your application.
 Furthermore, any medical information you disclose may help you with accessing health services.
 No illnesses or treatment you may have will affect your application for asylum in the UK

3.1	<p>Do you have any medical conditions? Investigate:</p> <ul style="list-style-type: none"> • How long have you suffered with this condition? • Diagnosed by a recognised medical practitioner? • Receiving specific treatment in the UK? (NHS?) • Name/Address of GP? • Any medication? • Any specialist care? 	
3.2	<p>Do you have any disability? Investigate:</p> <ul style="list-style-type: none"> • Nature of the disability • Specialist treatment/care in the UK? • Name/Address of GP? • Medication 	
3.3	<p>If the applicant is female: Are you pregnant? Investigate:</p> <ul style="list-style-type: none"> • Approximate due date? • Any complications? • Have you seen a Doctor? 	
PART FOUR: Basis of claim summary		
4.1	<p>What was your reason for coming to the UK?</p>	

4.2	Can you BRIEFLY explain why you cannot return to your home country?	
4.3	Have you ever claimed asylum or been granted refugee status/leave to remain in any other country before? If “yes” record all details	
4.4	If you passed through or stayed in any other countries prior to your arrival in the UK, why did you not apply for asylum there?	

STAGE TWO

PART SIX: Family Background

6.1	What was your last permanent address in your country of origin? Record all addresses in the last five years of occupancy	
6.2	What is your marital status? If “yes” investigate: <ul style="list-style-type: none"> • Where is your spouse now? • How long have you been married? If the applicant is not married ask: <ul style="list-style-type: none"> • Are you in a relationship with another person in the UK or abroad? 	
6.3	When did you last see your spouse/partner?	

6.4	<p>How many children do you have? Record all name(s), date(s) of birth and current location(s)</p>	
6.5	<p>When did you last see your children?</p>	
6.6	<p>What are the names and dates of birth for the rest of your family? Include details of all immediate family members and siblings including:</p> <ul style="list-style-type: none"> • any alias used (if known) 	
6.8	<p>Do you have any family in the United Kingdom? If “yes” provide all relevant details such as:</p> <ul style="list-style-type: none"> • Names • Dates of birth • Current Address/contact telephone number • Immigration Status? • How long have they been in the UK? 	

Appendix 4

Glossary

Term	Description
A	
Agency	Refers to the United Kingdom Border Agency.
Article 3 (European Convention of Human Rights)	A person may claim that their removal or deportation would breach Article 3, where it would place them at risk of torture or inhuman or degrading treatment or punishment.
Article 8 (European Convention of Human Rights)	A person may claim that their removal or deportation would breach Article 8 where it would interfere with their family and private life.
Asylum	Asylum is when a country gives protection to someone who is attempting to escape persecution in their own country of origin. To qualify for refugee status in the UK, an individual must apply to the UK Border Agency (the Agency) for asylum and demonstrate that they meet the criteria as set out in the 'Refugee Convention.
C	
Case Owner	The UK Border Agency term for an official responsible for processing cases of foreign national prisoners. A Case Owner's role includes considering whether a person should be deported or granted leave to remain in the UK.
Case Information Database (CID)	An electronic record management database used by the Agency. It is designed to record all applications for asylum and all casework activity to provide an audit trail of each case.
Complaint	Any verbal or written statement made by a person who is not satisfied with the service or treatment they have received or perceive to have received by the Agency. The Agency's own definition is " <i>any expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff including contractors</i> ".
D	
Detained fast-track (DFT)	An accelerated asylum case management process operated by the UK Border Agency whereby certain applicants (assessed by the Agency as making asylum claims that can be decided 'quickly') are detained in Immigration Removal Centres for the duration of their claims. Decisions to grant or refuse asylum are expected to be made within three days of an applicant's arrival in the DFT. Appeals against the Agency's decision are also accelerated and are significantly faster than decisions made in the community (see published indicative timescales).

Detained Non-Suspensive Appeals (DNSA)	An asylum case management system operated by the Agency whereby an applicant is detained for the duration of their claim whilst a case owner considers whether their claim can be certified as clearly unfounded. Clearly unfounded claims are those where the Agency considers that the applicant could live safely in their country of origin or part of that country. Appeals against the Agency's decision can only be made from outside the UK. The appeal does not 'suspend' removal.
Discretionary Leave (DL)	One of three forms of immigration status where permission to remain in the UK given to a person whom the Agency has decided does not qualify for refugee status or humanitarian protection but who does need to stay in the UK.
E	
European Convention of Human Rights 1950	An international agreement to protect human rights and fundamental freedoms of people across Europe.
Emergency Travel Document	A document to allow people, who do not have a passport, to travel back to their country. It is issued by a person's embassy or high commission.
F	
Fast Track Intake Unit	A unit within the Agency whose role is to assess the suitability of claims made by asylum applicants for the DFT.
H	
Human Rights Act (1998)	Legislation, which took effect on 2 October 2000, which meant that the UK's domestic courts could consider the European Convention of Human Rights.
Humanitarian Protection (HP)	A form of immigration status given to a person who does not qualify as a refugee but can show that there are substantial grounds for believing that if they were returned to their country of origin, they would face a real risk of suffering serious harm. Serious harm means either the death penalty; torture or inhuman or degrading treatment or punishment; or a serious and individual threat to a person's life or safety in situations of armed conflict.
I	
Immigration Removal Centre (IRC)	A place of detention for immigration purposes (e.g. two asylum case management systems and for the removal of people with no legal right to remain in the UK). Removal Centres are operated by private contractors on behalf of the Agency.
Immigration Tribunal (Immigration and Asylum Chamber)	An independent court where applicants with the right of appeal, can appeal against asylum and immigration decisions made by the Agency. The Tribunal is presided over by an Immigration Judge and the UK Border Agency is often present to defend the initial decision to refuse asylum. It replaced the Asylum and Immigration Tribunal (AIT) on 15 February 2010.

Independent Chief Inspector of the UK Border Agency	The role established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
J	
Judicial Review (JR)	The means through which a person or people can ask a judge to review the lawfulness of public bodies' decisions. A JR cannot be used to challenge an asylum decision.
S	
Screening interview	An interview carried out by Agency staff to gather initial information from an asylum applicant in order to decide where to locate their case. The interview can be conducted at police stations, prisons, local immigration offices, UK ports, immigration removal centres and the asylum screening unit in Croydon.
T	
Trafficking	Refers to applicants who have been forced to enter the UK illegally for the purposes of sexual exploitation or forced labour.

Appendix 5

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