

FINGERPRINTING

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FINGERPRINTING

1. INTRODUCTION

All asylum claimants may be required to have their fingerprints taken for identification purposes (Sections 141 and 142 of the Immigration and Asylum Act 1999).

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

Dependants of claimants may also be fingerprinted. Children under sixteen years of age may be fingerprinted, but only in the presence of a responsible adult, who cannot be a member of Immigration and Nationality Directorate (IND) staff or a person authorised to take fingerprints. The policy on fingerprinting children under five years of age is currently under review. A pilot involving the taking of fingerprints of claimants and dependents aged under five began in February 2006. This pilot is taking place for claims made at the ASUs in Croydon and Liverpool only.

If claimants and/or their dependents are required to attend a specified place for fingerprinting, they must be given a notice period of at least 3 days. The notice can direct an asylum seeker and/or his dependants to attend either a) on a specified day at a specified time, or during specified hours; or b) during a specified period at a specified time of day or during specified hours (section 29 of the Immigration, Asylum and Nationality Act 2006). This notice period does not apply when a claim for asylum is made, and those authorised to do so take the claimant's fingerprints on the day. The notice period only applies where asylum seekers are given notice to attend a specified location.

Fingerprints can be taken from the point of claim up until final determination (in other words when the claimant has exhausted all rights of appeal) or abandonment of the claim. For practical reasons it is advisable to take fingerprints as early in the process as possible.

1.1. Purpose of Fingerprinting

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

For further guidance on multiple asylum claims, contact the **Asylum Policy Unit** via a senior caseworker. For further guidance on the operational aspect of the Eurodac database, see the **API on Third Country Cases**, or contact **Third Country Unit (TCU)** via a senior caseworker. For policy issues contact **European Asylum Policy Unit (EAPU)** via a senior caseworker.

Asylum claimants are now being issued with an ARC, during which process they will be fingerprinted. Those who should not be issued with an ARC include those who cannot be fingerprinted due to a severe physical disability preventing the capture of fingerprints, and in these cases claimants should instead be issued with a Standard Acknowledgement Letter (SAL). Any asylum claimants who are nationals of an EU member state will also not receive an ARC, however their fingerprints should still be taken. For further guidance, see the **API on Application Registration Card**.

2. IMMIGRATION FINGERPRINT BUREAU

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

2.1. Safeguards

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

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

2.2. Data protection rights

The Immigration and Asylum Act 1999 makes provision for the destruction of fingerprints which have been taken under section 141 of the Act. Claimants may seek confirmation that any computer data which relates to their fingerprints has been destroyed, erased or blocked as required under section 143 of the 1999 Act. When a request for confirmation is received, a certificate must be issued within 3 months of the date of the request.

Under the Data Protection Act 1998 claimants can obtain copies of their fingerprints by making a subject access request under section 7 of the Act. All subject access requests should be referred to the Subject Access Bureau.

For guidance refer to *Chapter 24* of the *Immigration Directorate Instructions*.

2.3. Retention of Fingerprints

Following amendments made to the 1999 Act by the Anti-terrorism, Crime and Security Act 2001 there is no longer the requirement to destroy the fingerprints of an asylum seeker and any dependant(s) as soon as practicably possible after the conclusion of the claim. This applies to successful and unsuccessful claimants.

Fingerprints will now normally be retained for 10 years unless the Home Secretary specifies a different time period by Order.

3. REFUSAL TO PROVIDE FINGERPRINTS

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

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

However, claims should not be refused solely on these grounds. The claimant's substantive claim should also be considered.

Section 146 (2) of the Immigration and Asylum Act 1999 gives any person authorised to take fingerprints, as listed under section 141 of the same Act, the power to use reasonable force to fingerprint any claimant or dependant who is refusing to provide his or her fingerprints. If a claimant or dependent continues to obstruct the taking of their fingerprints, this will be taken into account in the reasons for refusal letter as outlined above. The claimant should not be issued with an ARC or SAL.

4. FINGERPRINT MATCH

Where a fingerprint match reveals that a claimant has made a previous claim in another identity they should be treated as one claimant. Their latest claim should be treated as further representations or a fresh claim as appropriate.

All such fingerprint matches should be referred to the relevant asylum teams for consideration. It is possible that the claimant will be prosecuted for making a fraudulent claim.

Guidance on dealing with further representations and fresh claims can be found in the **API on *Further Representations and Fresh Claims***.

5. FINGERPRINT EVIDENCE – USE AT APPEAL

All cases going to appeal that rely on fingerprint evidence should list the IFB Identification Reports for inclusion in the appeal bundle by the Appeals Processing Centre.

Any dispute about the identification that raises questions of a technical nature, or any request for confirmation of the identification, should be referred to IFB.

Enquiries: Further enquiries should normally be made in writing via a Senior Caseworker to Group G, APU.

Further advice:

See also the *Asylum Policy Instructions* on:

- Application Registration Card;
- Assessing the Claim;
- Further Representations and Fresh Claims;
- Non-compliance;
- Third Country Cases;

and **Chapter 24** of the *Immigration Directorate Instructions*.