

# BIOMETRIC DATA-SHARING (FINGERPRINT MATCHING)

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## *[Five Country Conference (FCC) Process]*

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# 1. Introduction

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## 1.1 Audience & Purpose of Instruction

This instruction is intended for the sight of all UK Border Agency (UKBA) officers involved in asylum screening, asylum interviewing, making substantive asylum decisions, onward case management, presenting appeals, and re-documenting subjects for removal from the United Kingdom.

The purpose of this instruction is to explain how to identify cases which may benefit from international biometric data-sharing, how to arrange these checks, and how to use the results.

The processes detailed in this instruction must be followed in line with regular practices. Particular attention must be paid to the instructions on Nationality: Doubtful, Disputed and Other Cases and Asylum Support.

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## 1.2 Background

The Five Country Conference (FCC) Data Sharing Protocol agreed between the UK, Australia, Canada, New Zealand and United States secured arrangements to share the fingerprints of up to 3,000 individuals between each participating country per year. All of the FCC countries are now exchanging data, apart from New Zealand, which is expected to commence in late 2010.

Where there is a match under these arrangements, partner countries will exchange information which may assist with case closure, the decision-making process and (for refusals) re-documentation and return. If the information concerns a live UKBA case, the Biometric Case Management Team will refer to the relevant officer or unit.

### 1.2.1 The Biometric Case Management Team (BCMT)

The Biometric Case Management Team (BCMT) will:

- Act as a central point of contact between UKBA officers and their international counterparts;
- Examine the data received then pass it to the relevant decision maker with suggestions for possible actions via a Results Pro-forma;
- Provide additional information on request;
- Assist with witness statements evidencing the fingerprint match for any appeal proceedings.

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## 1.3 Application of this Instruction in Respect of Children and those with Children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

All UKBA staff (and contractors carrying out UKBA functions) must have regard to the statutory UK Border Agency [“Every Child Matters” Section 55 Children’s Duty Guidance](#), which sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

It is important to understand that the biometric data-sharing process operates alongside existing child safety procedures and considerations. It does not replace such considerations, or reduce the scrutiny which must be given to child safety at asylum screening and throughout the asylum process.

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## 2. Making & Receiving Requests for Data Matching

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### 2.1 When to Request Data Matching

FCC data matching requests may be made at any time during the asylum process, starting at the screening interview. Requests are however a limited resource and must therefore be made on an informed basis, and only when appropriate.

As a general rule, in determining whether or not to make a data-matching request, officers must ask themselves two questions:

**i. Is a match likely?**

If the answer is no or highly unlikely, a request would usually be inappropriate.

**ii. Would any match provide significant benefit to either the decision or re-documentation of a failed applicant?**

If the answer is no or little benefit, a request would usually be inappropriate.

Where possible, any request must be submitted before any interview is scheduled, as the results may provide lines of questioning that must be pursued therein, but in some cases, the interview itself may be what provides the reasons for the request.

A *mandatory* list of criteria to be considered in line with the questions above follows:

- Applicant admits having been to another FCC country;
- Applicant admits connections to another FCC country (having some form of status, having resided there, or simply having applied for a visa to travel there);
- Applicant is suspected of having been to another FCC country;
- Applicant has suspected connections to another FCC country;
- Applicant's language/accent suggests they have been out of country of origin for longer than claimed, and in an FCC country during the intervening period;
- Applicant's knowledge of country of origin is poor suggesting they have not been there for some time, but in an FCC country instead.

A *suggested* list of criteria to be considered in line with the questions above are:

- Disputed/doubtful nationality cases - discrepancies in the stated immigration history;
- Criminal cases where deportation threshold is not met, where leave may need to be granted;
- Criminal cases without evidence of identity;
- Where there is insufficient supporting evidence to obtain ETD;
- Undocumented long-haul port arrivals.

#### 2.1.1 Other Criteria and Updates

This instruction will be updated where intelligence suggests further particular case types are appropriate for data-matching in the medium to long term.

If particular case types are appropriate for data matching in the short term, a prompt update will be given on the [FCC website](#). It is therefore important to check the website regularly.

There may be circumstances not listed in this instruction or on the FCC website when a match request may be appropriate, and so this list must not therefore be seen as a constraint if a check appears appropriate. Refer to the Biometric Case Management Team should such a case arise.

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## **2.2 How to Request Data Matching**

Complete in full the *Biometric Data Sharing Request Pro Forma* (below), email it to the Biometric Data Sharing Requests inbox, and attach a hard copy to the paper file.

### **2.2.1 Updating CID – Request Made**

CID Person Notes must be updated “Biometric Data Matching Request Made”, with a brief outline of the reason for the request.

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## **2.3 Receiving Results**

Officers will receive a Biometric Data Sharing Result Pro Forma by email, which will detail the information from the Providing Country’s response that will be relevant to their case, and which will give advice on how it can be used. Attach the Result Pro Forma to the paper file.

Where no match is found, the Result Pro Forma will usually be sent within 4 working days of the initial request. This will extend to 8 working days where a match is found.

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## **2.4 Data-Matching Requests From Other FCC Countries To The UK**

Just as the UK may request and obtain information from other FCC countries where matches are found, they may also request and obtain information from the UK.

If the request relates to a live UKBA case, the BCMT will contact the relevant officer or unit to request assistance in providing information to share with the FCC country.

The approach by another FCC country may indicate an applicant’s connection to that country which was not previously known or suspected, thus providing additional information on which to decide and manage the UK case. The BCMT will provide guidance on a case-by-case basis.

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## 3. Result Information

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The Biometric Data Sharing Result Pro Forma may contain several different types of information. The type of information found will determine the action (if any) to take.

### 3.1 Information Types

Key information from the data-matching process includes:

- **Identity information** – Establishes the identity (name, date of birth, and nationality) the person has used in another FCC country. [Note, that if identity discrepancies exist, the identity supported by a verifiable travel document is *likely* to be the genuine one.];
- **Transaction information** – Establishes where the person was at a certain time, either in another FCC country or when in contact with that country anywhere else in the world (e.g., when making a visa application). [This may, for example, show the individual was in the Providing Country or elsewhere at a time his asylum claim evidence states he was in his own country];
- **Status information** – Indicates if the person has settled or refugee status in another country;
- **Adverse information** – Indicates information about criminality in the Providing Country. [Criminality information may be relevant or even determinative to a substantive decision (see 4.7 [Considering Adverse Information Relating to Criminality](#)), but may also be relevant to case handling, contact management, and Harm rating for potential removals. Careful consideration and (where appropriate) action must be taken where information regarding criminality arises.]

Other information may become known as part of the match process:

- **Travel document information** – Where applicable, indicates the travel document known to the providing country, which if genuine and relating to the applicant's true identity, provides a verifiable means by which the UK can seek to redocument and remove the person. [CID Person Details must be updated with the travel document reference obtained from the Providing Country];

Although the BCMT will highlight the most pertinent information and provide advice on what action can be taken, decision-makers will need to consider this information alongside the other facts of the case to decide what action to take.

#### 3.1.1 Obtaining Further Information From The Providing Country

In most cases it will be possible to take action on the strength of the initial information from the Providing Country. However, should further information be required, officers should email the Biometric Data Sharing Requests inbox for advice.

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### 3.2 Updating CID With Result Information

#### 3.2.1 Initial CID Actions - Discrepant Identity

In the first instance, CID person details must show the given name with any other indicated identity recorded as an alias (from drop-down menu, click '**International Biometric Match**'). If subsequently the evidence shows an identity previously considered as an alias to be the true identity this must be recorded as the true identity on CID and all other names as aliases.



### 3.2.2 Initial CID Actions - Discrepant Nationality

In the first instance, CID Special Conditions must be updated to indicate a disputed nationality (from drop-down menu, click '**Nationality Dispute**'). The true nationality must be recorded on CID once it is established by reference to all of the evidence.

### 3.2.3 Initial CID Actions - Criminality/Harm

If information arises to indicate criminality, update CID Special Conditions and/or CID Notes as appropriate.

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## 3.3 Contact Management

Contact management arrangements must be considered throughout the life of the claim, and must reflect what is known about the individual and their expectations about their case.

Result information must inform the contact management arrangements, at the time of receipt, and following disclosure of the information with the applicant.

Consideration must be given to whether there is an increased likelihood of absconding and therefore whether the current regime needs to be amended or whether detention may be justified.

For further guidance on contact management refer to the Reporting Asylum Instruction.

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## 4. Interviews and Decisions – Use of Match Information

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Some considerations as to the use and handling of biometric match information will apply to both interviews and decisions, and more than one consideration may apply in a single case. The considerations outlined here are intended to address common scenarios, but are not exhaustive.

### 4.1 Applicant Has Left The UK While Their Claim Was Outstanding

The information may indicate that the applicant or a dependant has had biometric details taken outside the UK since claiming asylum, indicating they left the UK while the claim was outstanding.

In such cases, the claim must be treated as withdrawn (see Travel Abroad). Later attempts to reapply for asylum must be treated as Further Submissions, under paragraph 353 of the Immigration Rules. See “Re-application following withdrawal”, in Withdrawal of Applications.

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### 4.2 Third Country Cases

The evidence from the Providing Country may make the case of interest to the Third Country Unit (TCU). The process for referring cases can be found in Third Country Cases - Referring and Handling. If the alternate nationality is an EU nationality, see Asylum Claims made by EU Nationals.

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### 4.3 Interviews and Second Interviews

Officers must manage their cases such that wherever possible, substantive interviews take place only after receipt of international biometric match information. However, in some circumstances, this may not be possible (for instance, where the biometric check was requested only because of doubts raised during the asylum interview itself).

In all interviews, robust questioning must be applied to unambiguously ascertain whether the applicant accepts or disputes the fact of the fingerprint match.

#### **Biometric Match Information is Received Before the Asylum Interview**

If the facts of a biometric match are known before the first interview, the applicant must be interviewed as usual, challenged on the information obtained from the biometric match, and be given opportunity to respond.

#### **Biometric Match Information is Received After the Asylum Interview**

If the facts of a biometric match become known only after the first interview, officers must re-interview if:

- Identity or nationality deception appears to have taken place;
- The introduction of a new nationality suggests that it may be appropriate to certify the claim under section 94 of the 2002 Act;
- Where the match information introduces sufficient potential ambiguity such that to proceed without having given the applicant the opportunity to respond could result in a wrong or unsustainable decision.

Officers should, if in any doubt as to the necessity of a second interview, take advice from their SCW.

In arriving at a decision on the asylum claim, the information from the Providing Country must be considered alongside all other evidence (including any explanation from the applicant). In some cases, the information may in itself disprove the claim. In other cases, judgment will be needed to decide how and to what extent it affects the credibility of the claim. In some cases, the information may help corroborate and therefore support the claim.

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#### 4.4 Applicant Has an Alternate Nationality From That Claimed

The information may indicate that the applicant has an alternate nationality from that claimed. In all such cases, further checks (CID, PNC etc.) must be carried out on the alternative identity. Further guidance on this type of case can be found in the Asylum Instruction on Nationality: Doubtful, Disputed and Other Cases.

At interview, the applicant must be given the opportunity to explain why they have used different nationalities. Particular points to consider:

- If the applicant accepts the information from the Providing Country and admits to using an alternate nationality, they must be asked whether they wish to withdraw their claim;
- If the information from the Providing Country contains a travel document reference, they must be asked to either produce that travel document or provide a reasonable explanation for not doing so.

Consideration must be given to:

- The risk of removal to both countries;
- Whether the evidence affects credibility;
- Whether the claim can be NSA certified under Section 94 of the 2002 Act. This may be because the evidence shows that the applicant has **nationality or entitlement to reside in (1) a country designated under section 94(4) of the 2002 Act as being generally safe in which case the claim must be certified unless the SSHD is satisfied that it is not clearly unfounded or (2) an EEA state, or (3) another country where the applicant's core claim taken at its highest is clearly unfounded**. Even where the evidence shows that an individual has a nationality or entitlement to reside in a designated country, whether the claim is in fact clearly unfounded must be considered on a case-by-case basis. A decision to certify under section 94 must always be approved by an NSA accredited SCW. See Section 94 Certification.

Further advice may be sought by emailing the Biometric Data Sharing Requests inbox on a case-by-case basis, as it may not be possible to return the person to the Providing Country.

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#### 4.5 Applicant Has Different Personal Details From Those Claimed

The information may indicate that the applicant used different personal details to those given in the UK asylum application (but not a different nationality). Identity details which are discrepant must be checked to establish whether there may have been deception. Where

the discrepancy indicates deception, checks (CRS, CID, PNC etc.) must be conducted and the appropriate action taken. For further advice consult a SCW or the BCMT.

Illegal entry decisions may need to be revisited where a new identity is found.

At interview, the applicant must be given the opportunity to explain why they have used different identities. Particular points to consider:

- If the applicant accepts the information from the Providing Country and admits to using an alternate identity, they must be asked whether they wish to withdraw their claim;
- If the information from the Providing Country contains a travel document reference, they must be asked to produce that travel document or provide a reasonable explanation for not doing so.

#### 4.5.1 Age Discrepancies

Any discrepancy in age arising from the information from the Providing Country must be considered as it may provide strong support to dispute the person's age. It must be taken into account alongside all other evidence in reaching a decision. See [9. Age Disputes And UASC Cases](#). Specific guidance for dealing with UASC cases is provided in Processing Asylum Applications from Children.

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#### 4.6 Applicant Fingerprinted By Providing Country Prior To Claiming Asylum Or In The UK After Claiming Asylum

The information may indicate that the applicant was fingerprinted by the Providing Country before the UK asylum claim (for instance, when applying for a visa in the applicant's country of origin or another country, or on being stopped in the Providing Country itself). Other valuable information about the visa application transaction may come to light. This could prove a valuable source of additional information to be explored further as necessary.

Consideration must be given to:

- Whether the claim can be NSA certified under Section 94 of the 2002 Act. For example, the evidence may show that the applicant's claim is **clearly unfounded because nobody could reasonably believe the core claim** (for example, where fingerprint evidence definitively shows the applicant to have been in one place, when the core claim rests on the applicant having at the same time been persecuted in another place). A decision to certify under section 94 must always be approved by an NSA accredited SCW. See Section 94 Certification.

Further advice must be sought by emailing the Biometric Data Sharing Requests inbox where it appears it may be possible to return the person to the Providing Country.

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#### 4.7 Adverse Information/Criminality

Decisions based on criminality evidence from Providing Countries must be made only after taking advice from a SCW/BCMT on how to proceed. Careful consideration will need to be given to the type of information received in each individual case, and how it should be interpreted such that reliable conclusions may be drawn. The consideration will need to take full account of the relevant guidance, depending on the circumstances surrounding individual cases. Relevant instructions may include Exclusion - Article 1F and 33(2) of the

1951 Refugee Convention and (insofar as the principles apply generally to asylum cases) Criminality and Adverse Immigration History. Criminality information must be flagged on CID in the normal way and factored into the individual's Harm rating (see The Harm Matrix).

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#### **4.8 Decisions – Refusals and Grants**

Discrepancies and other important factors resulting from the biometric match affecting identity and credibility must be clearly addressed when a decision is made.

- Refusals - RFRLs must clearly address the relevant match information, and the disclosable information annexed (although see [6.1 Evidencing The Fingerprint Match For The Appeal Proceedings](#));
- Grants – A SCW must be consulted. If the SCW is in agreement about the grant, the consideration minute on file and CID must clearly show that the biometric match information has been considered.

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## 5. Post-Decision – Use of Match Information

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Information may emerge only after the service of a refusal, including when an appeal has been lodged and the case is in the appeals process). Careful consideration must be given to the implications of any evidence for the substantive decision and case management.

### 5.1 Implications for Decisions

The following list outlines key actions applicable to post-decision cases upon the receipt of further evidence. The considerations in [4. Interviews and Decisions – Use of Match Information](#) and [4.3 Interviews and Second Interviews](#) apply. Refer to a SCW or the BCMT if in any doubt.

#### **New biometric match information gives rise to ambiguity or doubt, such that the sustainability of the refusal decision is in question**

- Invite the applicant to interview, to clarify the points of ambiguity and/or doubt;
- Consider whether it is right to maintain refusal, amend refusal, or implement a grant.

#### **New biometric match information clearly shows an immediate grant to be appropriate**

- Withdraw the refusal decision according to normal procedures, writing to all parties (including the AIT where an appeal has been lodged);
- Implement a grant of asylum/HP/DL as appropriate, and according to normal procedures.

#### **New biometric match information adds little or nothing to the reasons for refusal**

- Take no further action in respect of the decision.

#### **New biometric match information provides significant further reasons for refusal, or provides significantly different reasons for refusal, but agrees with the removal country**

- Write a supplementary RFRL incorporating the additional evidence, and serve to all parties (including the AIT where an appeal has been lodged);

#### **New biometric match information discloses a different removal country**

- Withdraw the original decision according to normal procedures;
- Draft a new RFRL and decision notice according to the new evidence, and serve to all parties (including the AIT where an appeal has been lodged);

#### **New biometric information not previously available to UKBA at the time of the original decision suggests certification under section 94 of the 2002 Act is now appropriate**

- Consult an NSA accredited SCW. If it is agreed that an NSA decision would likely have been made in the first instance if the true picture as revealed by the match had been known, consider the appropriateness of an NSA decision, if necessary re-interviewing the applicant;
- If appropriate, withdraw the original decision according to normal procedures, notifying all parties (including the AIT where an appeal has been lodged);
- Draft a new NSA RFRL and decision notice according to the new evidence, and serve to all parties (not to include the AIT, as this decision will not be the subject of a pending appeal).

#### **New biometric information shows the applicant to have a different name/and or date of birth, but country of removal is the same**

- Write a supplementary RFRL, maintaining original reasons where appropriate;

- Re-issue decision notice with aliases noted and serve to all parties (including the AIT where an appeal has been lodged).

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## 6. Appeals Process – Use of Match Information

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The conclusions that can be drawn from information from the Providing Country on the merit of the asylum claim apply equally to cases within the appeals process. The same also applies in respect of verifying identity and other case management actions. See section on [4. Interviews and Decisions – Use of Match Information](#) and [5. Post-Decision – Use of Match Information](#).

Information that might assist the appellant **must** be disclosed. If the information lends support to the appellant's case, the decision must be reviewed accordingly.

### 6.1 Evidencing The Fingerprint Match For The Appeal Proceedings

If the appellant clearly accepted the fact of the match in their asylum interview, further evidence will not usually be required. However, if the appellant disputes the biometric match information, or where it is not sufficiently clear if he/she has accepted the fact of the match, further evidence must be requested from the BCMT as soon as possible.

In detained cases, this information must be requested before the refusal decision is served.

Complete in full the *Biometric Data Sharing Witness Statement Request Pro Forma* (below), email it to the Biometric Data Sharing Requests inbox, and attach a hard copy to the paper file.

The decision-maker will need to evidence any further corroborating information where it might exist, such as a VAF record found in an alternate identity.

#### 6.1.1 Submitting Written Evidence To The AIT

If the appeal bundle has been sent, the fingerprint match evidence must be put before the AIT and appellant/representative at the earliest opportunity, and a minimum of five days before the hearing. This must include an explanation for introducing the evidence at this late stage. Where it is not possible to give the AIT/appellant notice in advance, the fingerprint match evidence may be accepted for submission at the hearing in accordance with Rule 51(4) of the 2005 Procedure Rules. The AIT may then make a preliminary finding on whether to allow the evidence.

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### 6.2 Biometric Match Information Becomes Available Post-Appeal

It is possible that biometric match information may arrive only after the substantive appeal hearing. In such cases, if a reconsideration hearing on the outcome of the appeal is sought (whether by the asylum applicant or by UKBA), efforts must be made to present the new information to the Court, under Rule 32(2) of the 2005 Procedure Rules. In such circumstances, UKBA will need to show why this information had not been submitted before the initial hearing. UKBA will also need to argue that a mistake of fact has been made, constituting an error in law. It cannot be guaranteed that the Court will consider this late evidence.

See Onward Rights of Appeal. Refer to the Appeals Complex Advice Team for further advice.

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### 6.3 Applicant Leaves The UK During The Appeals Process

Where the appellant leaves the UK after lodging an appeal, or has left and then returned to the UK, the appeal is treated as abandoned upon departure. See Abandoned Appeals.

Any further submissions presented must be dealt with in accordance with the Further Submissions instruction, taking the information from the Providing Country into account.

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## 7. Appeal Rights Exhausted Cases – Use of Match Information

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### 7.1 Using Information From The Providing Country In Removal Considerations

For all potentially removable cases, it must be considered whether and how the information from the Providing Country may assist towards removal. If the information includes a travel document reference not previously held, it may assist with re-documentation (whether or not the identity or nationality is different).

RGDU (see Returns Guidance and Documentation) and/or the BCMT will provide further advice as necessary in dealing with discrepant Identity or nationality information from Providing Countries when seeking re-documentation/removal.

#### 7.1.1 Cases Where A New Country Is Introduced

- If the alternate nationality is an EEA nationality then removal is not normally an option. However, consideration must be given to ending asylum support (but only where there will be no breach of ECHR or EC treaty rights). If a person holds refugee status in an EEA country, it may be possible to remove them to that country;
- If the person has nationality or lawful permanent residence in the Providing Country, further advice should be sought by emailing the Biometric Data Sharing Requests inbox;
- If a new country is introduced, is viable for removal, and the subject claims no fear of return to it, a new decision notice, certified under Section 96 of the 2002 Act to have no appeal right may be appropriate. Alternatively, a decision conferring only an out of country appeal right will need to be served;
- If a new country is introduced, is viable for removal, and the subject claims to fear return to it, consideration will need to be given to treating the allegations as Further Submissions according to paragraph 353 of the Immigration Rules. If the action to take is other than a grant, it will either be to reject the allegations as further submissions (with no appeal right); or to accept the allegations as constituting a fresh claim and refuse it. Consideration must be then given to the type of decision applicable when refusing the fresh claim – either to certify under Section 96 of the 2002 Act (giving no appeal right), or to issue an ordinary decision to refuse the asylum and Human Rights Act application (conferring in-country appeal rights).

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### 7.2 Prepare For Re-Documentation

A fingerprint match to a verifiable identity should be powerful evidence in which to seek re-documentation, but is different from the type of evidence that is normally used. Officers must always refer to the Returns Guidance and Documentation resources in such cases. The relevant country's normal documentation requirements should be met wherever possible. However, where this is not possible (e.g. because the individual refuses to admit to the alternate identity), re-documentation under this procedure using the fingerprint match evidence should be attempted. In some cases the information from the Providing Country will confirm an ID in a nationality for which removal can be effected on an EU letter, and so re-documentation will not be necessary.

#### 7.2.1 Re-Documentation

All cases must be referred to RGDU for re-documentation with:

- **Form IS33b instead of the usual form IS33.** Ensure the travel document reference, and any additional information from the Providing Country relevant to the travel document (e.g. where it was seen) on the form IS33b;

- Data obtained from CRS or the VAF, if the individual had applied for a UK visa in the identity in which re-documentation is being sought;
- The requisite bio-data, as set out by RDGU in respect of the relevant country. Returns Guidance and Documentation resources for specific country requirements. If the individual has admitted to the identity in which re-documentation is being sought, or it can be obtained from the VAF, it should be possible to send the correct information. If not, bio-data for their claimed identity should be provided instead;
- Any other information which will support re-documentation.

Re-documentation and removal must be actively pursued in the identity and/or nationality believed to be correct, and failure to comply proactively deal with. See Returns Guidance and Documentation resources.

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### **7.3 Asylum Support Actions**

Ending asylum support must be considered where appropriate. See Eligibility and Assessment - Support.

Where an individual fails to supply an explanation for any discrepancies, consideration must be given to discontinuing support under regulation 20(1) (g) of the Asylum Support Regulations. Note that in accordance with regulation 20(3), a decision to discontinue support in these circumstances must be taken individually, objectively and impartially and reasons must be given; decisions must be based on the particular situation of the person concerned, and particular regard must be had to whether they are a vulnerable person as described in Article 17 of the Reception Conditions Directive.

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## 8. Cases Granted Leave Before the Biometric Match

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There may be some cases in which the applicant has already been granted some form of leave prior to receipt of the biometric match.

If the information from the Providing Country indicates that the claim was deceptive, it will be necessary to consider Cessation, Cancellation and Revocation of Refugee Status and any associated leave but also see [8.1 Administrative Removal Of Illegal Entry \(Deceptive\) Cases](#).

Cessation, cancellation or revocation is likely to be appropriate in cases where:

- The individual is not who they claimed to be (particularly if the information shows them to be a different nationality to that claimed);
- The claim was fundamentally false, for example if the individual was living in a country other than that where they claimed to be persecuted, and/or had settled status elsewhere;
- There is associated criminality information of a degree that would have caused a different decision to be made if known at the time;

If in the light of the information it is considered that it may be appropriate to cancel or revoke status and any associated leave, the new information will need to be put to the individual so that they can be given the opportunity to rebut/explain it.

For details on specific rights of appeal see Asylum Instruction on Rights of Appeal in Asylum Claims.

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### 8.1 Administrative Removal Of Illegal Entry or Deception in Leave to Remain Cases

If it is established that deception was practised and it was material to the grant of leave to remain, it will not be necessary to formally curtail leave because notification of a decision to remove under section 10 of the 1999 Act, or the taking of a decision to remove as an illegal entrant, will automatically invalidate that leave. The individual will have a non-suspensive right of appeal unless they have made a human rights or asylum claim whilst in the UK which is not certified as “clearly unfounded” or the individual is an EEA national or the family member of an EEA national who makes a claim that the decision breaches his Community rights. If the individual has refugee status this will also require cancellation.

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### 8.2 Pending Applications For Further Leave

Where HP or DL has expired and the individual has a pending application for further leave, this must be fully considered in light of the information from the Providing Country. Where it is established that the individual was granted leave on the basis of a deceptive claim (false identity, age, or circumstances), the application for further leave must normally be refused. However, this will not be appropriate if the individual now qualifies for leave on another basis, unrelated to their original claim.

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## 9. Age Disputes And UASC Cases

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Information from the Providing Country is capable of influencing both the substantive asylum claim and points of identity, including the applicant's age (influencing either positively or negatively). The way in which this information is handled in respect of a child differs from that of an adult.

The instructions below are mandatory reading, and must be read and understood before any of the actions listed here are carried out:

- Processing Asylum Applications from Children;
- Assessing Age (Disputed Age Cases);
- "Every Child Matters" Section 55 Children's Duty Guidance.

### 9.1 Where Biometric Match Information Is Relevant to the Age Assessment

If the child is receiving Local Authority (LA) care, match information capable of informing the age assessment must be disclosed to the LA without delay, in order for them to give consideration to the evidence as part of their age assessment procedures. It will be appropriate for the LA to ask the child to explain the reason for any discrepancy between the age information disclosed by the match and the age given by the applicant to the LA.

If the child is not receiving LA care, the match information must be considered by the officer responsible for the case, alongside all other evidence in the case. If there is a discrepancy between the age information disclosed by the match and the age given by the applicant in their asylum application, the officer responsible must put this information to the applicant and consider their response. This is in line with [4.3 Interviews and Second Interviews](#) and the Assessing Age (Disputed Age Cases) instruction. Officers are reminded that children must be interviewed in the presence of a responsible adult (see Processing Asylum Applications from Children).

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### 9.2 Where The Match Information is Relevant to the Substance of the Case

A local authority, though responsible for a child's care (which includes assessing their age where it is in doubt), is not responsible for considering the wider implications of biometric match information. As such, after the prompt communication of any information relevant to age to the LA (where involved), UKBA must still proceed by taking all pre-decision actions necessary for progressing the immigration case (see in particular [4. Interviews and Decisions – Use of Match Information](#) and [4.3 Interviews and Second Interviews](#)).

Officers must, if putting information to the applicant, do so in the presence of a responsible adult (see Processing Asylum Applications from Children).

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### 9.3 Communicating With Local Authorities

In all cases where an LA is involved in assessing or supporting a case and the identity of the individual is brought into question, it must be clearly communicated to the relevant social worker as soon as possible.

Decision-makers must write to the responsible social worker using ASL.3948, asking them to put the information from the Providing Country to the individual (if the decision-maker is

not going to do so themselves) and recommend that the LA reviews its support for the individual in light of the new information.

If it is not possible to obtain, or there is good reason to disagree with an LA reassessment, the information from the Providing Country must be put directly to the individual in the presence of a responsible adult. A senior caseworker must be consulted if there is a disagreement with the LA reassessment.

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## 9.4 Deciding The Case

If established that the individual is in fact an adult, Discretionary Leave under the UASC policy must not be granted. Any RFRL must include consideration of the biometric match information.

Where leave has already been granted under the UASC DL policy, and the individual is subsequently believed to be an adult in light of the information from the Providing Country, steps must be taken to curtail that leave. Alternatively, if deception is established, leave could be invalidated by a decision to remove. See section on [Cancelling/revoking status and/or leave](#). A senior caseworker must be consulted in such cases.

### 9.4.1 Leave Granted Before Receipt Of A Biometric Match in UASC Cases

In cases where the individual is already believed to be a UASC, but the information from the Providing Country suggests a different date of birth that still makes them a UASC, it may be necessary to adjust the period of leave already granted.

Applications for further leave from UASCs must always be considered in line with the Asylum Instruction on Active Review for UASC Granted Leave to Age 17 and a Half.

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## 9.5 Support Considerations

Entitlement to support will depend on a variety of factors, including the individual's "new" assessed age, whether and for how long they had been supported by the LA as a UASC, and their immigration status. If they are assessed as over eighteen years old following receipt of the information from the Providing Country, they will be treated as an adult asylum seeker or failed asylum seeker for support purposes, unless they fall to be treated as a former 'relevant' child. See Policy Bulletin 29 on Transition at Age 18 for definition of 'relevant' child.

### 9.5.1 Former 'Relevant' Child Asylum Seekers

If the individual's 'new' age is assessed as between eighteen and twenty-one (or twenty-four if being assisted by an LA with education or training) but the 'new' age was under eighteen when LA support commenced, then they may continue to qualify for support from the LA as a former UASC.

However, if according to the 'new' age the individual was already over eighteen when LA support commenced then they are not a former 'relevant' child and do not qualify for support from the LA under the Children Act.

It must be ascertained whether the individual will continue to be supported by the LA, and if so under which section of the Children Act. This is because the UKBA is required to reimburse the LA if care is continuing.

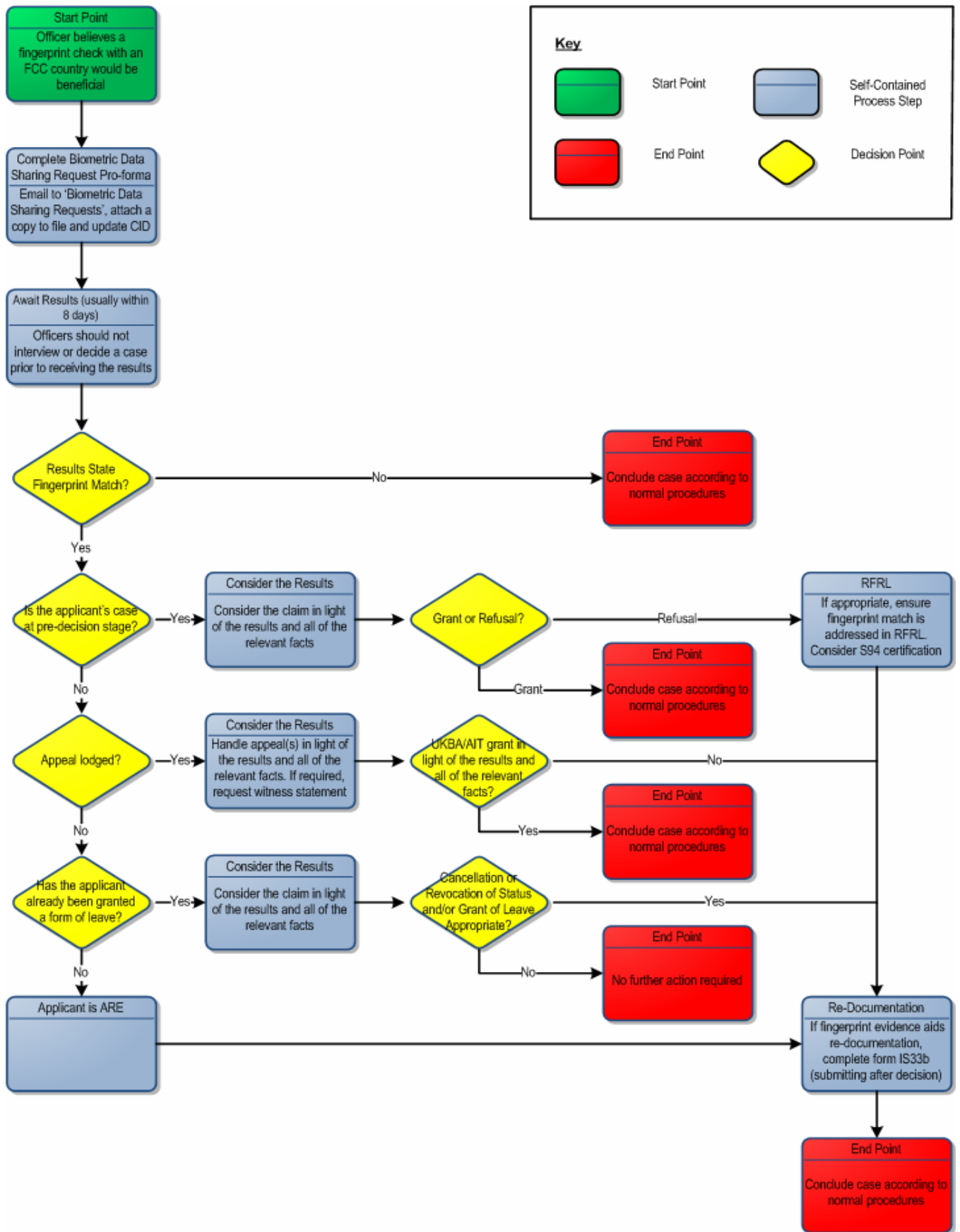
#### 9.5.2 Non-Former 'Relevant' Child Asylum Seekers

If the individual's 'new' age is assessed as eighteen or over, and they are still considered to be an asylum seeker under section 94 of the Immigration and Asylum Act 1999, they may be entitled to Section 95 asylum support. However, this may not be applicable if the individual is unable to provide a satisfactory explanation for the discrepancies in their account. See section on [Cases to consider asylum support actions.](#)

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## Annex A - Biometric Data Sharing Process Map



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# Document Control

## Change Record

Version	Authors	Date	Change Reference
V1	KP/MK	27/08/09	New Guidance
V2	MK	29/0710	Minor updates: URLs updated; S55 standard paragraph re-instated; Section 9 redrafted.