

# **ILPA** information sheet

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## **Detained Fast Track**

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This information sheet provides information about the detained fast track. This is used by the UK Border Agency to deal with some asylum claims. There are two types of detained fast track. Further information about detention is provided by the “Detention” information sheet.

### **The two types of detained fast track**

The first detained fast track process was introduced in March 2000 at the Oakington immigration removal centre. This process was for men, women and families claiming asylum. Although this process continues, it is much less used than previously. In March 2003, a second detained fast track process was announced. This was introduced at Harmondsworth immigration removal centre. In May 2005, this process was extended to Yarl’s Wood immigration removal centre. Harmondsworth is used to deal with men’s asylum claims and Yarl’s Wood is used for women’s claims. In recent years, use of this process has expanded.

### **The Oakington fast track process**

In March 2000, an asylum-seeker could be detained at Oakington if the Immigration and Nationality Directorate (what has become the UK Border Agency) decided that his or her asylum claim could be safely decided within 7 to 10 days. During that period the person would remain in detention. He or she would be offered free legal advice and representation from lawyers whose offices were in Oakington, and would be interviewed about his or her asylum claim with the lawyer present. Before the end of the period, a decision would be made on the asylum claim.

Many of those detained at Oakington were refused asylum and refused any right to an appeal before being removed from the UK. This was done because it was said that their asylum claims were clearly unfounded. Cases where this happened were sometimes referred to as “non-suspensive appeal” cases – i.e. unlike in other cases, the power to remove the person was not suspended so that an appeal could first be considered.

The UK Border Agency now refers to the Oakington fast track process as the detained non-suspensive appeal (DNSA) process. It is generally (but not only) used for cases where the asylum-seeker is from one of a list of countries, which the Government says are generally safe.

### **The Harmondsworth and Yarl’s Wood fast track process**

The process at Harmondsworth and Yarl’s Wood is very different to the process at Oakington. The period of detention generally lasts significantly longer, while consideration of the asylum claim is very much faster. The UK Border Agency now refers to the Harmondsworth and Yarl’s Wood process as the detained fast track (DFT) process. It is sometimes referred to as the super fast track.

An asylum-seeker may be detained at Harmondsworth or Yarl's Wood if the UK Border Agency decides that his or her asylum claim can be safely decided within 2 to 3 days. During this period the person will be offered free legal advice and representation, and interviewed about the asylum claim. Lawyers working in this process do not have offices in Harmondsworth or Yarl's Wood. The lawyer may be present during the asylum interview, but there is far less opportunity than in the Oakington process for the asylum-seeker to meet the lawyer before or after the interview.

Before the end of the 2 to 3 days period, the UK Border Agency makes a decision on the asylum claim. The person may appeal, in which case he or she cannot be removed from the UK while that appeal continues. Many people do appeal, but not all have legal representation for their appeal. This is often because legal aid is refused because it is said the appeal fails the merits test (see the October 2007 "Legal Aid – General" information sheet). That test allows legal aid if the prospects of success on an asylum appeal are unclear. The DFT process is so fast that it seems likely that most appeals would be unclear, so there are concerns the merits test is not always correctly applied. The appeal process (including any further appeal against the decision of an immigration judge in that process) may be over within less than three weeks. Throughout the period, the person remains in detention. Many people continue to be detained for several weeks or months after this period.

### **Timescales in other asylum (i.e. non-detained fast track) cases**

In other asylum cases, the UK Border Agency aims to make a decision on the person's asylum claim within 30 days of the claim being made. It aims to resolve a case, including any appeal if asylum is refused, by either granting permission to stay to the asylum-seeker or removing him or her within six months of the claim being made. However, these timescales set out broad targets, which are not applied in every case. Many asylum cases, which are not dealt with in the detained fast track processes, take longer than these timescales.

### **Outcomes in the detained fast track and other cases**

Asylum-seekers whose claims and appeals are dealt with in the detained fast track processes are very much less likely to be granted asylum than those whose claims are not dealt with in these processes. The Home Office statistics for September to December 2009 show:

- of asylum claims decided in the Harmondsworth and Yarl's Wood process, only 1% were successful (i.e. granted permission to stay in the UK)
- of all asylum claims decided, 23% were successful

The Home Office does not publish statistics on appeal decisions in the detained fast track processes. However, the UK Border Agency has frequently confirmed that of appeals decided in the Harmondsworth and Yarl's Wood process, only between 1% and 3% are successful. Of all appeals decided between September and December 2009, 30% were successful.

Asylum-seekers are not supposed to be selected for the detained fast track on the basis that their claims are poor or likely to fail. Cases are supposed to be selected on the basis that the UK Border Agency considers their claims can be decided quickly; and it's policy is that virtually all asylum claims can be decided quickly. This suggests the reason why asylum claims are so much less successful in the detained fast track is because the process seriously disadvantages asylum-seekers. Disadvantages include having very little time to meet and establish any trust and confidence in a lawyer; and, for many, having no legal representation for any appeal.

These disadvantages are discussed in a recent Human Rights Watch report (looking at the Yarl's Wood process). It is available at: <http://www.hrw.org/node/88671>

ILPA has produced a best practice guide on legal advice for those in the detained fast track. It is available at: <http://www.ilpa.org.uk/pub.html>