

# NATIONALITY SWAPPING - ISOTOPE ANALYSIS AND DNA TESTING

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# 1. Introduction

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This instruction is aimed at:

- Officers within the ASUs responsible for conducting isotope analysis and DNA testing;
- Asylum case owners / presenting officers considering the results of these tests in respect of the cases they own.

This instruction details:

- Which cases are suitable for isotope analysis and DNA testing;
- How such testing should be arranged;
- How to apply isotope and DNA results during the substantive asylum interview, Reasons for Refusal Letter (RFRL) and during any appeal.

This instruction should be read in conjunction with ['Cases Where There Is An Issue Relating To The Applicant's Nationality'](#) and ['Presenting Cases Where It Appears The Applicant Is Removable To More Than One Country/Territory'](#).

## 2. Background

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Intelligence and CID data reports indicate that there may be a significant percentage of asylum applicants claiming to originate from a country which is not their own in order to further their asylum claim by claiming to be a different nationality and/or to frustrate removal action in the event that their asylum claim is refused.

It has therefore been considered necessary by the UK Border Agency to take appropriate measures in order to stop this abuse of the UK asylum system. Language analysis is already being used and has so far proven to be an effective tool in identifying an applicant's true country of origin (for further guidance refer to the [Language Analysis](#) instruction).

Isotope analysis and DNA testing is now available to the UK Border Agency and it will work alongside language analysis, initially as a pilot, to further enhance our ability to identify at the outset of the asylum process those who are claiming under a false nationality.

### 2.1 Isotope Analysis

Isotope analysis is based on a forensic technique which was pioneered during the 'Adam Torso' case - a police case in which a child's torso was found in the Thames too mutilated to offer any kind of identification.

Isotope techniques had been in use in many other commercial areas, for example the brewing trade and explosives but this was the first time it had been used to identify the country a human being came from. In this case bone samples were analysed for their stable isotope content and matched against known stable isotope samples (these isotopes are present in unique configurations in different areas of the world and remain unchanged as they pass through the food chain and are finally stored in certain parts of the body in the same way they were on the land, in the air, water, rocks and soil etc.) In this case the child's body was traced to a small Nigerian town in an area about 100 x 50 km wide.

It is this technology that the UK Border Agency will employ, however, bones samples will not be used and the taking of the samples will not be intrusive for the asylum applicant.

### 2.2 DNA Testing

Alongside this, 'ancestral' DNA (Mitochondrial, Y chromosome and Single-Nucleotide Polymorphism (SNPS)) will also be used to identify a person's country of origin as that also has common patterns in different population groups of the world. This is not the same kind of DNA testing that is used to identify personal markers at crime scenes or the perpetrator of a crime. Testing will only provide a clue to the person's ancestral lineage allowing a probable identification with a particular country. These DNA samples will not be added to the National DNA database.

Women are unable to be DNA tested using the Y chromosome analysis method because they have two X chromosomes in their cells and not an X and a Y. However they can be tested using the mitochondrial analysis method and in the near future it will be possible to test women using SNPS, which is expected to begin during the life of this pilot.

### 3. Suitability Criteria for Isotope Analysis and DNA Testing

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An asylum applicant is only suitable for isotope analysis and DNA testing if they meet all of the following criteria:

- The applicant is an adult;
- The applicant is not considered vulnerable\*;
- The applicant has claimed to be of Somali nationality;
- The applicant has undergone language analysis testing;
- The preliminary results from the language analysis have found that the applicant is not from Somalia;

\* Vulnerable, could mean an applicant with learning difficulties, a victim of trafficking etc. If an ASU officer is unsure if the applicant is vulnerable, this must be discussed with their HMI.

Asylum applicants can only undergo isotope analysis and DNA testing at the screening stage. Case owners are not permitted to refer their applicants back to ASU if they were not tested at the time they were screened.

## 4. Conducting Isotope Analysis and DNA Testing at the ASUs

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Once it has been considered that an asylum applicant meets the suitability criteria, the ASU officer must adhere to the following actions.

### 4.1 Explain the Isotope Analysis and DNA Testing Process to the Applicant

- Fully explain to the asylum applicant the use of isotope analysis and DNA testing;
- Read verbatim the statements within the consent form (ASL.4037) to the applicant.

### 4.2 Request Signed Consent from the Applicant

- Ask the applicant to sign the consent form (ASL.4037) to state that they agree to participate in these tests;
- If the applicant decides to not participate with these tests, ask them to provide an explanation and ensure they indicate on the consent form that they have chosen to not take part (if the applicant refuses to do this then the screening officer must state this on the form);
- Attach the consent form to the Home Office (HO) file and state on CID 'Notes', whether or not the applicant agreed to participate, and if not, document their reason for refusing.

### 4.3 Take Isotope and DNA Samples and Relevant Information at the ASUs

The HPP (Human Provenance Project) Manager will provide ASU officers with sufficient training prior to the commencement of the pilot. An ASU officer must not take samples unless they have been trained by the HPP Manager.

Once the samples have been collected the officer must:

- Place the samples in the appropriate sealed tamper proof bags (identifiable by HO reference only);
- Log within the 'Sample Register';
- Lock the samples away in the dedicated refrigerator;
- Add the Special Conditions flag 'Isotope and DNA Tested' to the applicant's case on CID.

The samples will be removed collectively approximately every two days from the dedicated refrigerator by the HPP Manager and sent securely to a laboratory for analysis.

Once the samples have been taken and the screening process completed, the applicant's case should be routed to a regional asylum team as per normal procedures.

## 5. Isotope Analysis and DNA Testing Results (Case Owners Only)

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Results from the isotope analysis and DNA testing will be sent directly from the laboratory to the HPP Manager within seven to ten working days. The HPP Manager will then consider the results and write a guidance comment for each result and attach as an appendix an explanation of the methodologies of both forensic disciplines.

The HPP manager will locate the appropriate case owner by:

- Opening CID and clicking on the asylum case type;
- Clicking the 'standard events' icon on the left-hand toolbar, this will then display a list of events that the asylum applicant has gone through and it also displays the case owners name under 'Event Status Details' (right-hand side of the screen).

As this is the principle way to identify the responsible case owner, it is vital that CID is updated accurately, immediately after the case has been assigned to a case owner.

The case owner to which the case was assigned will then be informed of the results of these tests by email. The case owner must consider the guidance sent to them by the HPP manager and consider the test results accordingly, in conjunction with all other available information.

### 5.1 Applying Language Analysis Results in Conjunction with the Isotope and DNA Results

All asylum applicants who have provided isotope and DNA samples will have also undergone language analysis. The results from the language analysis must be afforded appropriate weight in relation to all other relevant information, including the isotope and DNA results.

## 6. The Substantive Interview (Case Owners Only)

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### 6.1 Has the Applicant Provided Isotope and DNA Samples

Prior to undertaking a substantive interview, the case owner must check whether or not the applicant has provided isotope and DNA samples. In order to check, the case owner should check the 'Special Conditions' screen on CID where there should be an 'Isotope and DNA Tested' flag if they have provided samples.

The HO file and CID 'Notes' should also be checked as there should be an isotope and DNA consent form attached.

### 6.2 Results Not Received Prior to Substantive Interview

As results from these tests are not expected back until seven to ten working days from the date in which they were taken at ASU, it is unlikely in most cases that case owners would have the results back in time for the substantive interview.

If the results are not back in time, it is recommended that the case owner asks the asylum applicant questions regarding the applicant's claimed nationality at the substantive interview as they should be in possession of the language analysis results (full language analysis reports should normally reach the case owner within seventy-two hours of the test).

### 6.3 Results Received Prior to Substantive Interview

The case owner must put the results of the tests to the applicant and ask for any comments that they might have. The case owner must then proceed to ask questions regarding the applicant's claimed nationality. Case owners must still ask detailed questions regarding the applicant's basis of claim.

### 6.4 Applicant Refused to Participate with the Isotope Analysis and DNA Testing

The interview should proceed in a normal manner, however case owners should carefully probe the applicant's claimed nationality, their fear of return to their claimed country of origin and, if appropriate, their fear of return to the country we suspect them to originate from.

## 7. The Asylum Decision (Case Owners Only)

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Case owners must consider **all** aspects of the asylum claim before making a final decision and must **not** rely solely on the isotope and DNA test results.

For further guidance refer to the instruction [Considering the Asylum Claim](#).

The true country of origin of an applicant must be assessed by reviewing and weighing up all of the available evidence – including documentary evidence, knowledge of the country in question, the language analysis report and the isotope and DNA test results.

### 7.1 Granting Leave

If the isotope and DNA test results provides strong evidence that the applicant does originate from the country they claim to be, this must be considered in the round with all other available information in relation to the applicant's claimed nationality, if this also provides strong evidence, and they have established a well-founded fear of persecution in their country of origin, leave should then be granted accordingly.

In this instance, the isotope and DNA test results would be in direct contradiction to the language analysis report. It is therefore vital that the case owner considers all of the information available and applies appropriate weight to the most compelling evidence.

For further guidance see instructions [Considering the Asylum Claim](#) and [Implementing Substantive Decisions](#).

### 7.2 Refusing the Asylum Claim

If writing an RFRL, case owners must insert the appropriate standard wording immediately after the introductory consideration paragraph at part C of the RFRL.

See Annex A – Standard Wording for the RFRL.

The nationality issue must then be addressed in the RFRL and the reasons why the applicant's nationality is being doubted clearly set out. The weight to be given to the isotope and DNA results in terms of evidence of nationality depends on the findings.

For further guidance see the instruction [Cases Where There is an Issue Relating to the Applicant's Nationality](#).

#### 7.2.1 Addressing Refusal to Provide Samples, within the Reasons for Refusal Letter

If an asylum applicant refused to provide samples for the isotope analysis and DNA testing the case owner could draw a negative inference as to the applicant's credibility and if appropriate apply [Section 8 of the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#).

Section 8 states that where an asylum applicant has behaved in way that is designed or likely to conceal information or mislead the UK Border Agency; it could be seen as damaging the applicant's credibility.

The case owner must ensure that they apply proportionate reliance on the applicant's refusal to provide samples. There must be **other** compelling evidence which also clearly



demonstrates that the applicant has attempted to conceal information or mislead the UK Border Agency, it must not be stated within the RFRL in isolation and must certainly not be stated as a primary reason for refusing the applicant's asylum claim.

If it is unclear whether or not to apply an applicant's refusal to participate as a negative credibility point within the RFRL, the case owner should seek advice from their senior caseworker.

## 8. The Appeal (Case Owners and Presenting Officers Only)

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If an appeal is lodged the isotope and DNA results and the standard statement, which details the methodology of these tests (attached as an appendix to the initial results sent to the case owner), must be included as part of the appeals bundle (along with the language analysis evidence - for full details see the [Language Analysis](#) instruction).

Where evidence of nationality is submitted prior to an appeal hearing, case owners should refer to the instruction [Presenting Cases Where it Appears the Applicant is Removable to More Than One Country/Territory](#) before proceeding with the case.

## 9. Maintaining Records

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### 9.1 Recording Management Information

In order for the HPP Manager to evaluate the success of the pilot it is vital that case owners provide feedback at various stages of the asylum application.

Case owners must provide feedback at the following stages:

- Decision making stage - the case owner must state:
  - Whether the results were referred to in the final decision letter?
  - How helpful the results were?
    1. Very Helpful
    2. Helpful
    3. Unhelpful
    4. Very unhelpful
- Appeal stage - If the applicant lodges an appeal the case owner or presenting officer must state the impact the results had on the appeal.
- Removal stage - the impact the results had on the removal (if appropriate).

This information for each stage must be stated within the CID 'Notes' screen and emailed to the HPP Manager.

### 9.2 Notifying the HPP Manager when the Asylum Claim has been Concluded

It is vital that as soon as the case owner is aware that the applicant's asylum claim has been concluded (i.e. a granted status or removed) they contact the HPP Manager. This is because the samples collected from the applicant must be destroyed as soon as the application has been concluded for data protection purposes.

## Annex A – Standard Wording for the Reasons for Refusal Letter

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### 1. Where the results of the tests provide strong evidence that the applicant is from their claimed country of origin

You were asked to provide isotope and DNA samples at the Asylum Screening Unit to ascertain your **country/area/clan of origin**. You claimed to **come from X/ be of X nationality**. The results of the tests provide strong evidence that you are *Case Owners should employ the terminology used in the guidance comment* from the **country/area/clan** as claimed. Taken together with all the other evidence, it is therefore accepted that you come from **country/area/clan**.

### 2. Where the results of the tests provide strong evidence that the applicant is not from the claimed country of origin

You were asked to provide isotope and DNA samples at the Asylum Screening Unit to ascertain your **country/area/clan of origin**. You claimed to **be of X nationality**. The results of the tests are *Case Owners should employ the terminology used in the guidance comment*. This provides strong evidence that you are NOT from **the country/area/clan** as claimed and also strong evidence that you are from **insert country**. Taken together with all the other evidence, it is therefore not accepted that you come from **country/area/clan**.

### 3. Where the applicant refused to take part.

When you attended the Asylum Screening Unit, you were asked to provide isotope and DNA samples to ascertain your **country/area/clan of origin**. It is noted that you refused to provide samples. *Case Owners should insert reason(s) why the applicant did not provide samples by referring to the Screening Officer's comments on the consent form which should be attached to the HO file (if not, also check CID 'Notes')*.

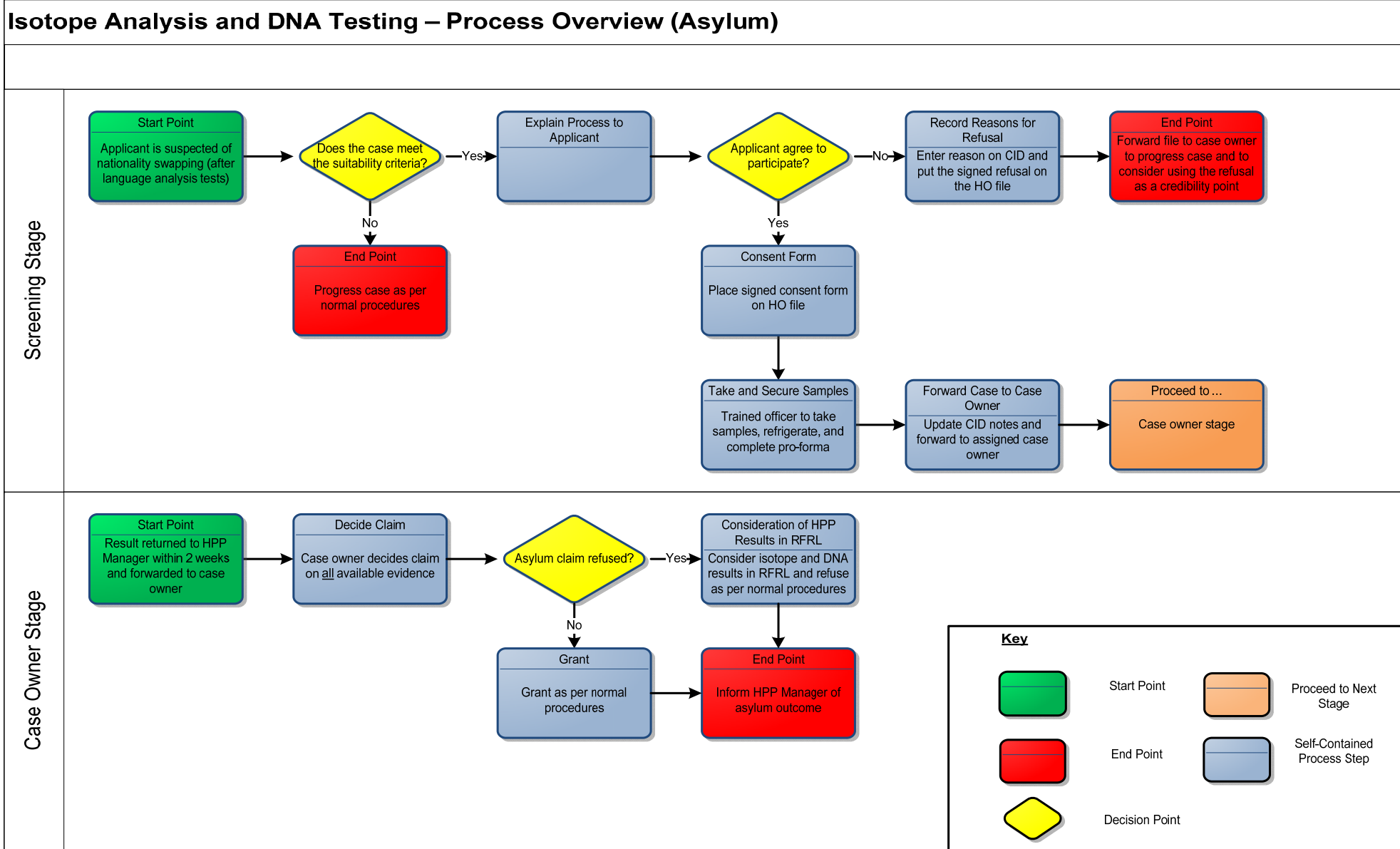
*Use where a reasonable explanation has been given*

It is considered that you gave a reasonable explanation for failing to provide samples.

*Use where no reason has been given or a reasonable explanation has not been given for refusing to provide samples (do not use this standardised wording in isolation – refer to 7.2.2 Addressing Refusal to Provide Samples, within the Refusal Letter)*

You did not give a reasonable explanation for failing to provide samples. It is considered that a person in genuine need of international protection would assist the authorities of a safe country in establishing the validity of **his/her** application for asylum. Your failure to do so undermines your claim to be a refugee.

# Annex B – Isotope Analysis and DNA Testing - Process Overview Map



## Glossary

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<b>Term</b>	<b>Meaning</b>
ASU	Asylum Screening Unit
CID	Case Information Database
HO	Home Office
HPP	Human Provenance Project
LA	Language Analysis
RFRL	Reasons for Refusal Letter

# Document Control

## Change Record

Version	Authors	Date	Change Reference
1	BN	27/08/09	