

# Assessing Age

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## Table of Contents

### 1. Introduction

- 1.1 Purpose of Instruction and intended audience
- 1.2 Intended audience

### 2. Assessing Age – General Policy Considerations

- 2.1 Background
- 2.2 Policy to be applied when the person is first encountered.
- 2.3 Section 55 of the Borders, Citizenship and Immigration Act 2009

### 3. Local Authority Age Assessments

- 3.1 General Position and the Merton Judgment
- 3.3 History of age assessment
- 3.4 Receiving evidence of age

### 4. Sharing Information with Local Authorities

- 4.1 Background Information
- 4.2 Disclosing Evidence of Age to the Local Authority
- 4.3 Where UKBA has separately concluded that the applicant is a child (or an adult)
- 4.4 Where a Local Authority bases its decision on age on documentation
- 4.5 Obtaining the Local Authority's Age Assessment

### 5. Other Evidence of Age

- 5.1 Travel Documents and Identity Documents
- 5.2 Birth Certificates
- 5.3 Evidence of Age from Visa Applications or Biometric Data
- 5.4 Authenticity of Documents
- 5.5 Paediatrician's Reports
- 5.6 Receipt of a dental age assessment or x-ray reports

### 6. Weighing Up Conflicting Evidence of Age

- 6.1 General Guidance
- 6.2 Additional evidence
- 6.3 Receipt of an age assessment from another local authority

### 7. Screening and Documentation Procedures to be Followed

- 7.1 Screening
- 7.2 Documentation for Doubtful Age Cases
- 7.3 Updating UK Border Agency Records
- 7.4 Recording Doubtful Age Cases on CID
- 7.5 Further paperwork
- 7.6 Responsible Adults
- 7.7 The Statement of Evidence Self Completion Form (ASL.1957)

### 8. Routing and Accommodation

- 8.1 Routing Applicants Whose Age is in Doubt
- 8.2 Claimants found to be a Child as a Result of New Evidence
- 8.3 Invitation to First Reporting Event

## **9. Application Registration Cards**

- 9.1 Which date of birth to display on ARC card**

## **10. Case Owner Actions**

- 10.1 Background Information**
- 10.2 Case Owner actions regarding SEF**
- 10.3 Where there is no Evidence of Local Authority Age Assessment**
- 10.4 Evidence of age submitted leads to decision that the applicant is a child**
- 10.5 Evidence of age submitted leads to decision that the applicant is an adult**
- 10.6 Updating CID when an applicant's age is no longer in doubt**

## **11. Disputed Age and Detention**

- 11.1 Guidance on detention**

## **12. Evidence that Applicant is a Child Received after Service of Decision**

- 12.1 Satisfactory evidence provided after the decision service event**
- 12.2 Satisfactory Evidence Provided in the Grounds of Appeal**

## **13. Presenting Doubtful Age Cases at Appeal**

- 13.1 Safeguarding and Promoting Children's Welfare**
- 13.2 Evidence of Age**
- 13.3 Conducting the Appeal Hearing**
- 13.4 Case of AA Afghanistan and Age Dispute Cases**
- 13.5 Making submissions in age dispute cases**

## **14. Implementing an Immigration Judge's decision that the appellant is a child**

- 14.1 An immigration judge finds the applicant to be a child**
- 14.2 Where the local authority considers applicant as an adult, but the UK Border Agency has accepted the applicant as a child**

## **15. Recording Age Dispute Details on Asylum Correspondence**

- 15.1 General Correspondence**

## **Process Map**

# 1. Introduction

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## 1.1 Purpose of Instruction and intended audience

This instruction sets out the policy and procedures to follow where an asylum applicant claims to be a child, but there is lack of definitive documentary evidence to prove this is the case.

## 1.2 Intended audience

This instruction is intended to provide guidance for Case Owners, Case Resolution Directorate case workers, Chief Immigration Officers, Senior Case Workers and Presenting Officers.

[Back to contents](#)

## 2. Assessing Age - General Policy Considerations

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### 2.1 Background

Many asylum applicants who claim to be children do not have any satisfactory documentary or other evidence to support their claimed age. This means that a decision needs to be made about their age. Many are clearly children whilst some are very clearly adults. In other cases the position is more doubtful and a careful assessment will need to be made of the person's age. All available sources of information should be considered since no single assessment technique, or combination of techniques, is likely to determine the person's age with precision.

Once that assessment is completed, a decision can be made about the person's age but until that point, cases in the doubtful category should continue to be given the benefit of the doubt and be treated as if they were children.

The sort of evidence that is sometimes relevant to findings about age is considered in more detail later in this instruction.

For the purposes of this instruction, and in line with the UN Convention on the Rights of the Child and section 55 of the Borders, Citizenship and Immigration Act 2009, a child is defined as a person under the age of 18 years.

### 2.2 Policy to be applied when the person is first encountered

Where there is little or no evidence to support the person's claimed age, (often the case at screening stage), the following policy should be applied:

- 1) The claimant should be treated as an adult if their physical appearance/demeanour **very strongly suggests that they are significantly over 18 years of age**. These applicants fall within the adult process.

Some further details about procedures for handling these cases are provided in various parts of this instruction (see particularly section 7 about the screening and documentation procedures to be followed in these cases). But in general the rest of the document does not apply to these claimants, since they fall to be considered under adult processes. Case owners should nonetheless review decisions to treat claimants as adults on this basis, if they receive significant additional evidence.

- 2) **All other cases should be processed in the first instance as though the applicant were a child, in accordance with the Asylum Instruction 'Processing Asylum Claims from Children'**. This policy is designed to safeguard the welfare of children. It does not indicate final acceptance of the claimed age, which will be considered in the round when all the evidence is collected, including the view of the local authority to whom unaccompanied children, or claimants who are to be temporarily treated as unaccompanied children, should be referred. For more information about procedures to be applied at the screening stage see section 6 of the *Processing an Asylum Application from a Child* Asylum Instruction.

The UKBA asylum process should not normally be delayed while the issue of age is being resolved, but this instruction sets out the safeguards that have been put in place to ensure the application is processed fairly until that happens.

Case owners will sometimes be ready to make a decision on a person's asylum claim whilst the local authority is still considering the person's age, or it is known that an age assessment has been conducted but the findings are not yet available. In these instances, the asylum decision should be taken but the applicant will not be eligible for consideration under the UASC Discretionary Leave policy. Consideration of that matter can take place, if appropriate, once the local authority's findings on age are known. For more information see paragraph 10.3.

### **2.3 Section 55 of the Borders, Citizenship and Immigration Act 2009**

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. The new duty does not impose any new functions, nor override existing functions. The policy contained elsewhere in this document has certain in-built safeguards and is therefore considered to be compliant with the new duty. For example in the absence of evidence we will initially treat applicants as children if they claim to be under 18 unless their physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age. Nevertheless, UKBA staff must take into the account the need to safeguard and promote the welfare of children in the UK whenever they interact with them.

In doubtful age cases, this guidance is consistent with the new duty because it sets out suitable arrangements to ensure that these cases are treated appropriately. These arrangements act as a safeguard by allowing for the possibility that the person may subsequently produce evidence showing that they are a child or there may be a local authority age assessment undertaken according to *Merton* guidelines assessing them to be a child. These arrangements ensure compliance with the new statutory duty by ensuring that UKBA does not expose the applicants concerned to various risks which might compromise their safety or welfare - they are provided with a Responsible Adult, they are not accommodated with adults and they are not normally detained.

The policy in relation to cases where the applicant's appearance and demeanour very strongly suggest that they are significantly over 18 is consistent with the new duty because UKBA has had regard to the need to safeguard and promote the welfare of the child concerned when making the initial age assessment at the screening stage, giving the applicant the benefit of the doubt, and has found them to be an adult. The duty does not compel UKBA to treat persons whose appearance and demeanour strongly suggest that they are significantly over 18 as children. Thus, the same safeguards are not necessary.

The policy of relying heavily on local authority age assessments which follow the guidelines set out in the *Merton* judgment, before finding applicants of doubtful age to be adults, is also consistent with the new duty because the *Merton* guidelines ensure that proper safeguards and standards of enquiry and fairness are adhered to. Local authorities who are bound by section 11 of the Children Act (upon which section 55 is based) also rely on their own *Merton* compliant age assessments unless and until they receive further evidence indicating that the person concerned is a child.

The UK Border Agency statutory guidance entitled, "*Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency*" sets out the key principles of the new duty.

For further guidance on the adult process please refer to: Handling Claims.

For further guidance on handling claims from children, please refer to:  
Processing\_Asymum\_Applications\_From\_Children

[Back to contents](#)

## 3. Local Authority Age Assessments

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### 3.1 General Position and the Merton Judgment

Local authorities will often have a duty to provide accommodation and support to an unaccompanied asylum seeking child under provisions of the Children Act 1989. For that reason, unless the claimant is to be treated as an adult because his/her appearance and demeanour very strongly suggests they are significantly over 18, all unaccompanied children or claimants who say they are unaccompanied children should be referred to the relevant local authority.

As part of its duties, the local authority will normally conduct an assessment of the claimant's age in order to determine eligibility to children's services, and in some cases, the level of the person's needs (since the level of need may depend on age).

In many cases, the local authority's assessment will be the primary source of evidence available to UKBA about the person's age. There is no prescribed way in which social workers are obliged to carry out assessments and in practice the way in which they are conducted will depend on the circumstances. The courts have, however, provided some general guidance to local authorities in a case involving Merton Council ([B v London Borough of Merton \[2003\] EWHC 1689 \(Admin\)](#)), in which judgement was handed down by Stanley Burnton, J in the High Court on 14 July 2003. Among the points the court noted were:

- except in clear cases, the decision maker cannot determine age solely on the basis of the appearance of the applicant
- **in general**, the decision maker must seek to elicit the general background of the applicant, including his family circumstances and history, his educational background, and his activities during the previous few years. Ethnic and cultural information may also be important. If there is reason to doubt the applicant's statement as to his age, the decision maker will have to make an assessment of his credibility, and he will have to ask questions designed to test his credibility
- the decision maker must explain to an applicant the purpose of the interview
- if the decision maker forms the provisional view that the applicant is lying, the applicant must be given the opportunity to address the matters that have led to that view
- adequate reasons must be given for a decision that an applicant claiming to be a child is not a child (though these need not be long or elaborate)
- cases vary, and the level of inquiry required in one case may not be necessary in another
- a local authority may take into account information obtained by the Home Office, but it must make its own decision, and for that reason must have adequate information available to it.

Case owners should give considerable weight to the findings of age made by local authority social workers, recognising the particular expertise they have through working with children. In cases where the social worker's assessment is the only source of information about the person's age – their assessment will normally be accepted as the decisive evidence of the person's age.

Nonetheless, case owners should carefully consider the findings of the local authority and discuss the matter with the social worker in appropriate circumstances – for example: when it appears that the findings are unclear; or do not seem to be supported by evidence; or it appears that the case is finely balanced and the person has not been given the benefit of

the doubt; or that it appears that the general principles set out by the judge in the Merton case have not been adhered to.

### **3.3 History of age assessment**

Case owners must maintain a written record of **all** attempts made to obtain a local authority age assessment, including telephone calls. All responses from the applicant, local authorities or legal representatives must be noted and retained on file, since these may have a bearing on future appeal hearings.

### **3.4 Receiving evidence of age**

When a local authority age assessment has been received, the case owner should complete the following formal procedures:

- The case file should be clearly minuted, to say what evidence has been received, when, and from whom.
- The CID record should be updated (see below).

[Back to contents](#)

## 4. Sharing Information with Local Authorities

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### 4.1 Background Information

Case owners are reminded that they **must** liaise closely and share information relevant to the claimant's age with local authorities.

UKBA is required to make decisions on age for immigration purposes; local authorities make similar decisions for the purposes of assessing eligibility to children's support services. It is therefore possible that the two agencies may make different decisions on age. Close liaison and reference to the joint working protocol between UKBA and the Association of Directors of Social Services on behalf of local authorities, will keep such cases to a minimum. The current protocol (attached below) was agreed in November 2005 and is in the process of being revised to provide clearer points of contact. Where UKBA and LA assessments cannot be reconciled, instead of contacting the 'Asylum Policy Unit' (as advised in section 14a), such cases should instead be referred to the Asylum Complex Advice Team, to attempt formal reconciliation with the local authority.

When sharing information with local authorities, case owners must ensure that they comply with the UKBA's policy on information management: <http://horizon/ind/IM/Corporate.asp>

### 4.2 Disclosing Evidence of Age to the Local Authority

Where UKBA has accepted that an asylum applicant is a child, or is giving consideration to treating the person as a child, case owners must ensure that the local authority is made fully aware of all available evidence of age. This should ideally take place before the local authority has made its decision on age.

It is equally important that if at a later stage UKBA decides to accept that the applicant is a child, there is a discussion with the local authority before the decision is implemented. An example of such a case is where an Immigration Judge accepts that the person is a child and, on the particular facts of the case, it is considered that UKBA may be obliged to give effect to the decision by granting discretionary leave to remain. Before such a decision is made it is essential that the matter is discussed with the local authority. This will ensure that the case owner has all available material relevant to the decision and to establish whether or not the local authority, in light of the Judge's finding, proposes to accept the applicant as a child and therefore provide children's services, support and accommodation.

Where the local authority does not accept the applicant as a child, case owners should initially seek further guidance, on a case by case basis, from their Senior Caseworker and also refer to the joint working protocol document referred to above.

### 4.3 Where UKBA has separately concluded that the applicant is a child (or an adult)

It is also important that where UKBA has concluded that the applicant is a child, based for example on reliable documentary evidence, that the reasons for our decision are shared with the local authority. The consequences of failing to disclose such information may be that the local authority, through no fault of its own, inappropriately refuses support under the Children Act. (Equally, it is important that reliable documentary evidence that the person is an adult is relayed to the local authority so that it can review the particular case.)

#### 4.4 Where a Local Authority bases its decision on age on documentation

Local authorities may sometimes base their assessment of age, or amend an age assessment, in the light of documentary evidence from the country of origin, or from documentation originating in another country. UKBA staff should be careful about accepting the findings of social workers in these cases, since they do not generally have the necessary expertise to assess the authenticity of such documentation. In such cases, it will usually be necessary for case owners to make their own enquiries about the authenticity of the documentation (which may affect UKBA's decision on the individual's age) and relay the findings back to the social worker.

#### 4.5 Obtaining the Local Authority's Age Assessment

Case owners should request a full copy of the local authority's age assessment and confirmation that it has been carried out in compliance with the guidelines in the Merton case. In some instances local authorities may still feel unable to share their full age assessment with the UK Border Agency citing data protection or confidentiality reasons.

Case owners should discuss these cases with the relevant social worker from the particular local authority, with a view to obtaining in writing, **at the very least** their assessment conclusion, the reasons on which their conclusion is based and an assurance that their assessment complies with the local authority's own assessment policy and the guidelines in the Merton case.

It will be especially important to establish the full reasons for the local authority's decision on age in circumstances where claimants have been assessed as adults but still maintain they are children. Where the local authority is unwilling to provide this information claimants can be asked to provide the full age assessment that will usually have been given to them, or give their written permission to allow the local authority to disclose the document. Where a claimant refuses to disclose the document, or give permission to the local authority to disclose the document, that factor may be taken into account when responding to any other evidence produced in support of the claimed age.

[Back to contents](#)

## 5. Other Evidence of Age

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The following pieces of evidence of age may be submitted and should be considered alongside the local authority assessment where one is available.

### 5.1 Travel Documents and Identity Documents

An original and genuine passport, travel document, or national identity card in the applicant's name, which the officer can verify as genuine, and which shows that an applicant is under 18 years of age at the time of the application, will usually be sufficient proof of age. However, caution must be exercised in accepting passports or other identity documents from some countries where there is evidence that they can be obtained improperly or through ways that provide little evidence that the information is accurate. Photocopies or faxed copies of these documents will carry considerably less weight as evidence of age.

### 5.2 Birth Certificates

An original and genuine birth certificate in the applicant's name will normally be acceptable proof of the applicant's age, provided that it is accompanied by other genuine official documentation bearing a photograph of the holder, eg a military card, identity card, government pass, etc. However, caution must be exercised in accepting birth certificates and other official documents from some countries where there is evidence that they can be obtained improperly or through ways that provide little evidence that the information is accurate.

If screening officers are in any doubt, they must seek guidance from a supervisor. For country specific guidance on birth certificates, refer to the relevant Country Report on the Asylum website.

### 5.3 Evidence of Age from Visa Applications or Biometric Data

Where there is evidence of age based on a biometric visa match, it should be dealt with on a case-by-case basis. The visa application should be considered 'in the round', especially where there is other evidence of age. Photocopies of visa applications are acceptable. Local authority social workers should be made aware of the visa application, prior to completing their age assessment.

Evidence based on a Eurodac hit or other biometric evidence does not, by itself, amount to conclusive evidence of age but should be considered on a case-by-case basis. Where, for example, a person claims to be a child but has clearly claimed to be an adult when encountered in a different country en route to the UK, an assessment will need to be made of the credibility of the reasons given for doing so.

### 5.4 Authenticity of Documents

An applicant may state that documentary evidence showing him/her to be an adult is in error, or was obtained fraudulently through the use of forged documents, bribery or other means. In this event, the applicant should be questioned with regard to the following, **non-exhaustive** list of considerations:

- When was the document issued and by whom?
- What evidence was needed to obtain the document? (E.g. birth certificate needed for a passport?)
- Was the applicant required to sign a declaration confirming correct details?

- Has the applicant reported the error to the issuing authority? (When and with what outcome?)
- Has the applicant used the document? (E.g. by travelling on a passport containing an error, travelling through a third country, or using a birth certificate to obtain other documents/benefits?)
- Were any officials bribed to obtain the document?
- The country situation, objective evidence of strict procedures, and the consequent likelihood of the applicant's claims being true

The above considerations are only a starting point for port officers and case owners when attempting to establish the likely veracity of documents. Where officers have concerns regarding the reliability of a document, they should first seek guidance from their supervising officer or senior case worker. If further concerns remain, documents may be referred to the National Document Fraud Unit where appropriate.

In the course of these further enquiries, further consideration should be given to whether:

- any new evidence has been provided that sheds light on the applicant's age
- whether the local authority was aware of this documentation in arriving at its conclusion on age

## 5.5 Reports from Paediatricians

If an applicant submits a report written by a practising consultant paediatrician that concludes that the applicant is or may be under 18 years of age at the time of the application, this **must** be fully considered alongside any other evidence and given appropriate weight. However, care must be taken with such reports as the margin of error can be considerable and the reasons for the paediatrician's conclusion on age may not always be clear.

The Royal College of Paediatricians, in their guidance on age assessment, have said that in practice, age determination is extremely difficult to do with certainty:

*“Paediatricians may be asked to give their opinions on whether a young person is a child under the age of 18. This request may be made by the child's legal representative, who may be seeking to show that the young person in question is under the age of 18, as those accepted as such should not normally be held in detention. The paediatrician's assessment should only be done in the context of a holistic examination of the child. When making their assessments, paediatricians may find it useful to be aware of the Asylum Casework Instructions used by the Immigration and Nationality Department of the Home Office. An excerpt from these is given at the end of this section of the guidelines (see page 14).*

*In practice, age determination is extremely difficult to do with certainty, and no single approach to this can be relied on. Moreover, for young people aged 15-18, it is even less possible to be certain about age. There may also be difficulties in determining whether a young person who might be as old as 23 is in fact under the age of 18. **Age determination is an inexact science and the margin of error can sometimes be as much as 5 years either side.** Assessments of age measure maturity, not chronological age. “ (from “The Health of Refugee Children: Guidelines for Paediatricians”, Chapter 5.6, published November 1999).*

Any reports from Paediatricians that purport to give an assessment of age within a narrower margin of error than the one set out in the Royal College's Guidelines should be treated with caution.

Additionally, in assessing the relative weight to be given to reports by Paediatricians, case owners should note the comments of the judge in the case of *A v London Borough of Croydon & SSHD; WK v SSHD & Kent County Council* [2009] EWHC 939, in particular at paragraphs 33, 34 and 80 (though note also that this case is being appealed to the Court of Appeal).

## **5.6 Receipt of a dental age assessment or x-ray reports**

In some instances, applicants will submit reports from dental consultants based on a detailed assessment of dental development. The margin of error in determining age through this process is approximately plus or minus 2 years or less, for 95% of the population. (Para. 5.6.3 *The Health of Refugee Children: Guidelines for Paediatricians. Royal College of Paediatrics and Child Health – Nov 1999*). This means that there will be cases where such reports should be given considerable weight – for example because the person's claimed age is within the possible range. Case owners should seek guidance from a senior case worker if they are in doubt how to proceed. If the case owner decides to reject the dental age assessment, they must state clearly their reasons for doing so, and the applicant must be informed in writing.

Similar care is required when considering assessments of bone-age involving X-ray (most likely, of the hand) where variations may be due to differences in the timing of the onset of puberty and the whole process of skeletal maturation, which may themselves be affected by illness, nutrition and ethnic variations. The child's medical, family and social history will therefore need to have been taken into account in any such assessments.

(Para. 5.6.1 *The Health of Refugee Children: Guidelines for Paediatricians. Royal College of Paediatrics and Child Health – Nov 1999*).

[Back to contents](#)

## 6. Weighing Up Conflicting Evidence of Age

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### 6.1 General Guidance

It is UKBA policy to give prominence to an age assessment by a local authority, and it is likely that in most cases that authority's decision will be decisive. Nonetheless, case owners should carefully consider the findings of the local authority and discuss the matter with the social worker in appropriate circumstances – for example: when it appears that the findings are unclear; or do not seem to be supported by evidence; or it appears that the case is finely balanced and the person has not been given the benefit of the doubt; or that it appears that the general principles set out by the judge in the Merton case have not been adhered to.

Furthermore, all sources of information should be considered and an overall decision made in the round. Account may be taken of the overall credibility of the claimant, established for example through the asylum interview, though care should be taken in doing so. Further guidance on assessing credibility when dealing with child claimants is provided in section 15.4 of the *Processing an Asylum Application from a Child* Instruction.

In some doubtful age cases, the claimant will not be “unaccompanied” - for example because he/she is living with relatives. As they are unlikely to enter children's support services these claimants will not generally have their age assessed by a local authority. A decision on the age of the person in these circumstances should therefore be made on the basis of all other sources of information available with the benefit of the doubt applied in the person's favour.

### 6.2 Additional evidence after the age decision

Case owners will normally need to review a decision on age if they later receive significant additional evidence. Where the decision on the claimant's age was based on a local authority assessment, the local authority should normally be invited to review its earlier decision and any observations noted, before UKBA reconsiders its decision on age in the light of the additional evidence.

### 6.3 Receipt of an age assessment from another local authority

In some cases an age assessment conducted by one local authority may be received, which contradicts an assessment from another local authority. In practice, this will generally happen after the first local authority has decided the person is an adult and he/she has now moved address and approached the local authority in that area. In such circumstances, the second local authority should be asked to confirm that it has considered the findings of the first authority. A decision on whether to accept the second local authority's assessment will depend on the particular findings, considered with all the other evidence in the round. Reasons should be recorded and set out in any decision letter.

Where a local authority has provided an age assessment, but subsequently submits a further more comprehensive age assessment with a revised conclusion on age, the findings of the second assessment must be fully considered.

[Back to contents](#)

## 7. Screening and Documentation Procedures to Be Followed

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### 7.1 Screening

In all cases children and claimants who say they are children should be asked for documentary evidence to help establish their age.

If the screening officer considers that a claimant's physical appearance/demeanour very strongly suggests that they are significantly over 18 years of age a Chief Immigration Officer or HEO must be consulted. The Chief Immigration Officer or HEO should then make their own assessment of the claimant's age. If their assessment agrees with that of the screening officer the claimant should be informed that his/her claimed age is not accepted and that their asylum claim will be processed under adult procedures. Form IS 97M should be served and the **appropriate box(es) must be ticked, and the document signed by the CIO.**

In all other cases, the claimant should be informed, in a sensitive way, that although there is insufficient information at this stage on which to make a final decision, he/she will for the present be treated as a child until all available information is collected. In these situations the most pressing need will usually be to arrange accommodation and claimants should be informed that a referral will be made to the relevant local authority. The claimant should be informed that the local authority will generally make an assessment of their age and communicate the result to UKBA, at which time a final decision will be made about their age.

Where on-site social workers are available these conversations should usually be handled in the presence of the social worker, with close liaison to ensure that procedures are carried out in accordance with the best interests of the child. **On-site social work teams are available during normal working hours at Croydon ASU, Dover and Gatwick and are on call at Heathrow,**

In locations where there is no on-site social worker team, doubtful age cases must be notified that they can approach a local authority for an age assessment and arrangements made to refer them to the local authority (section 6 of the *Processing an Asylum Application from a Child* Instruction provides further guidance on referrals).

### 7.2 Documentation for Doubtful Age Cases

**The screening officer must complete a BP7 form, (ASL.3596, Disputed Age Contention).** This should set out that the reasons why the person's claimed age can not at this stage be accepted - for example because of the lack of documentation and because the person's physical appearance or demeanour appears inconsistent with his/her claimed age. The person must also be served with an IS.97M form and the contents explained sensitively.

The above forms should be completed on Doc.Gen as soon as possible.

**NB: Screening officers based in ports or Local Enforcement offices must adhere to local instructions where a Supervising Officer is not immediately available.**

### 7.3 Updating UK Border Agency Records

The screening officer must minute the case file to note that the applicant's age is in doubt, and why. The minute must include confirmation that the decision to doubt the claimed age was agreed by a supervising CIO or HEO. The minute should be attached to the left hand side of the case file. A copy of both the IS.97M, and the BP7, must be attached to the right hand side of the case file.

#### 7.4 Recording Doubtful Age Cases on CID

##### Restricted Information

#### 7.5 Further paperwork

Immigration Officers should, in addition, proceed to serve on the applicant all necessary paperwork, for example, the IS.96/248 which outlines the conditions of release. (Screening officers based in ports or Local Enforcement Offices must adhere to local instructions).

#### 7.6 Responsible Adults

Applicants who claim to be children but UKBA don't accept as under 18 should be accompanied by a Responsible Adult for all subsequent events (finger-printing, substantive interview, service of decision) in the usual way i.e. as if they are children, until the issue of age is resolved, unless their appearance and demeanour very strongly suggest they are significantly over the age of 18.

#### 7.7 The Statement of Evidence Self Completion Form (ASL.1957)

Applicants who claim to be children and are being treated as such even though UKBA has doubts that they are under 18 must be issued with a Statement of Evidence Self Completion (SEF) Form (ASL.1957) to be completed and returned to the Case Owner within 20 working days. **Those applicants whose appearance and demeanour very strongly suggest they are significantly over the age of 18 should be treated as adults, i.e. they will not be issued with a SEF.**

## 8. Routing and Accommodation

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Following completion of screening procedures, the application should be referred to the Asylum Intake Unit (AIU) in order to be routed by the Asylum Routing Team (ART).

### 8.1 Routing Applicants Whose Age is in Doubt

Where UKBA decides that the applicant's physical appearance/demeanour very strongly suggests that they are significantly over the age of 18 years, the Routing Team should follow the usual procedures appropriate for adults, including dispersal if the person is placed into the asylum support system.

All other claimants covered in this document should be routed to an asylum case-owner who has been trained to interview asylum seeking children.

Where a local authority, has declined to accommodate a person referred to them as a child or a possible child, this may be taken to indicate that they have been assessed as an adult. However, case owners should establish the reasons for the local authority's decision by following the guidance set out in section 4.5 of this instruction. If the local authority's decision is accepted by UKBA it is likely that the person will need to be transferred to the adult asylum support system administered by UKBA. In such cases liaison between UKBA and the local authority on the arrangements will usually be necessary and the Initial Accommodation Team informed by email.

The CID notes screen should be updated to show that the Initial Accommodation Team has been informed of the outcome of the age assessment.

### 8.2 Claimants Found to be Children as a Result of New Evidence

Where a claimant is accommodated under the adult asylum support system, and new evidence is accepted that shows they are a child, arrangements should be made with the local authority to transfer the child to its care and steps taken to stop their asylum support.

There may be occasions where the local authority does not agree with UKBA's view that a person is a child and therefore declines to accept him/her into its children's services. Case owners **must** not terminate the applicant's support without seeking guidance from a senior case worker and after discussions with the local authority to resolve the disagreement have taken place.

Careful handling at this point will ensure that UKBA has fulfilled its duty to have a regard to the need to safeguard the welfare of the child.

For further guidance on processing applications from children, refer to the link below:  
[Processing\\_Asylum\\_Applications\\_From\\_Children](#)

### 8.3 Invitation to First Reporting Event

- An invitation letter should be sent for the applicant's First Reporting Event, to be scheduled for working day 10. In some regions, local arrangements may be in operation. In this event, staff should follow local instructions, and seek guidance from a Senior Caseworker if in doubt. Those applicants whose appearance and demeanour very strongly suggest they are significantly over the age of 18 should be treated as adults in the usual way.

[Back to contents](#)

## 9. Application Registration Cards

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### 9.1 Which date of birth to display on ARC card

The ARC must display the word 'disputed' on the visible part of the ARC next to the **estimated** date of birth. Therefore, a decision on whether to accept the claimed date of birth needs to be made before the ARC card is issued.

ARC cards should **never** be issued for doubtful age cases which display the claimed date of birth (showing the applicant to be a child).

For further guidance on updating ARC when an applicant's age is no longer in doubt, please refer to:

[Application Registration Card \(ARC\) and Standard Acknowledgement Letter \(SAL\)](#)

[Back to contents](#)

## 10. Case Owner Actions

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### 10.1 Background Information

While the policy contained in this instruction has certain in-built safeguards and is therefore compliant with section 55 of the Borders, Citizenship and Immigration Act 2009, UKBA staff must take into the account the need to safeguard and promote the welfare of children in the UK whenever they interact with them.

The UK Border Agency statutory guidance entitled, 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles of the section 55 duty.

### 10.2 Case Owner actions regarding SEF

On receiving the case, the case owner should follow the instructions below:

- Ensure that a Statement of Evidence Form – Self Completion (SEF) (ASL.1957) was issued and has been returned to the case owner within 20 working days.
- If a SEF was not issued at Screening, the case owner should despatch a SEF to the applicant or his legal representative without delay.
- If the applicant is subsequently found to be an adult, but the SEF has already been received prior to a decision being made on the asylum claim, the SEF must be considered together with the evidence obtained at interview.

### 10.3 Where there is no Evidence of a Local Authority Age Assessment

Where a Local Authority is in the process of completing an age assessment, the Case owner must liaise with them to establish when it will be completed. The asylum decision should **not be delayed** pending an age assessment.

**If an age assessment has not been received by Day 30 the case owner must proceed to make a decision on the case.** If the asylum and Humanitarian Protection applications fall to be refused, the case owner **MUST NOT** at this stage grant DL under the UASC policy.

### 10.4 Evidence of age submitted leads to decision that the applicant is a child

The case owner should complete and issue a 'Confirm accepted as a child' letter; this is available on Doc.Gen (ASL.2382). This should be served on the applicant or his legal representatives, and one copy placed on file.

The case owner should prepare two copies of a letter to inform the local authority that the decision to dispute the applicant's age has been withdrawn (where there has been no previous involvement with local authority, only one is required). In addition, the Refugee Council's Panel of Advisors **must** be informed that the applicant is now accepted to be a child. A copy of these letters must be placed on file.

Where there has been no previous local authority involvement, the case owner should refer the child to the relevant local authority using the [Social Services Referral Form](#).

For more information on the Refugee Council's panel of advisers see: [Processing an asylum application from a child](#).

## **10.5 Evidence of age submitted leads to decision that the applicant is an adult**

Where an age assessment indicates the applicant to be aged eighteen or over, the application will be handled from that point onwards according to the general policy and processes for adult applicants, and the applicant may be allocated to a non-children trained case owner.

## **10.6 Updating CID when an applicant's age is no longer in doubt**

Restricted Information

[Back to contents](#)

## 11. Disputed Age and Detention

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### 11.1 Guidance on detention

The main guidance on detention can be found in chapter 55 of the Enforcement Instructions and Guidance:

Detention

For entry to the Detained Fast Track follow the guidance in the DFT & DNSA Intake

Selection Asylum Instruction:

DFT & DNSA Intake Selection

[Back to contents](#)

## 12. Evidence that Applicant is a Child Received after Service of Decision

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### 12.1 Satisfactory evidence provided after the asylum decision service event

If satisfactory evidence that the applicant is under 18 years of age is provided after the Decision Service Event, the case owner must review the decision. Where appropriate, the original decision must be administratively withdrawn, and a fresh decision issued to the applicant, with a grant of DL under UASC policy where appropriate.

### 12.2 Satisfactory Evidence Provided in the Grounds of Appeal

If, in the grounds of appeal, satisfactory evidence is provided that the decision was made when the applicant was under 18 years of age, the case owner must review the decision, and if appropriate grant DL under UASC policy.

If it is appropriate to grant DL under the UASC policy, the case owner **must** withdraw the original decision, and serve the new immigration decision to the applicant in person wherever possible. The contents of the decision letter will usually remain largely the same (as the claim would usually have been decided as if the applicant were a child), and the only change will be the granting of UASC DL.

For further instructions on the actions to take at the Decision Service Event for a child see the AI on [Asylum Applications from Children](#).

[Back to contents](#)

## 13. Presenting Doubtful Age Cases at Appeal

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### 13.1 Safeguarding and Promoting Children's Welfare

While the policy contained in this instruction has certain in-built safeguards and is therefore compliant with section 55 of the Borders, Citizenship and Immigration Act 2009, UKBA staff must take into the account the need to safeguard and promote the welfare of children in the UK whenever they interact with them.

The UK Border Agency statutory guidance entitled, 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles of the section 55 duty.

### 13.2 Evidence of Age

All available evidence of age should be submitted to the Asylum & Immigration Tribunal in the appeal bundle, for consideration by the Immigration Judge at the appeal hearing. The Immigration Judge will often make a determination in respect of the appellant's age, which will form part of the overall appeal determination.

For further guidance on appeal preparation, see the Asylum Instructions on Appeal Bundling, and Appeal Hearings.

### 13.3 Conducting the Appeal Hearing

At the appeal hearing it should be highlighted that asylum decisions made in respect of claimants covered by this instruction (i.e. not those who appear to be significantly over 18) will have been made under the same procedures used for children, and that the appellant was interviewed in line with child guidelines.

If by the date of hearing, the full age assessment has not been made available, every effort should be made to obtain a copy of the age assessment. Where it cannot be obtained, this should be drawn to the attention of the Judge, and its absence fully explained. This applies particularly where the appellant is seeking to persuade the Tribunal that he/she is a child, perhaps on the basis of a paediatric age assessment. Case owners should note that although the age assessment may not be available to UKBA it will almost always be available to the appellant. If the appellant is not accommodated by a local authority the result of the assessment should of course be clear. These matters should usually be investigated through sensitive cross-examination.

In making submissions about the weight to be given to an appellant's claim to be a child, in circumstances **where he/she has not disclosed the local authority's age assessment**, case owners may find it useful to note the comments of the judge in the case of [\*The Queen on the application of \(1\)M \(2\) A and \(1\) London Borough of Lambeth and \(2\) London Borough of Croydon in 2008\*](#):

*157. In my judgment it is necessary, first, to look at the decision of the AIT and the decision of Lambeth of 12 September 2007. The AIT decision was in relation to the SSHD's refusal to treat M as a minor. Dr. Michie's report, favourable to M, was before the Immigration Judge, who found that the SSHD had no sound basis for challenging the conclusion of Dr. Michie (paragraph 21), that no social services assessment had been conducted in respect of M's age (paragraph 24), that Dr. Michie was correct in his assessment of M's age (paragraph 26), that as a lay person*

he (the Immigration Judge) had no regard to M's physical appearance and that he was not qualified to assess a person's age simply in his experience (paragraph 26).

158. Thus it is apparent that the AIT was kept in ignorance of the two hour assessment of M by Lambeth social workers in which they, well versed in assessing the ages of young persons, came to an opposite conclusion. I find this omission concerning. The SSHD may well not have known of Lambeth's assessment done on 14 December 2006. But M did, and so must his solicitors acting for him in the judicial review proceedings begun on 13 March 2007. Whether M's solicitors acting for him in his immigration appeal knew of Lambeth's age assessment is unknown. But M knew. Whether he told his immigration solicitors is unknown. I have no doubt that if Mr. Adler, M's counsel before the Immigration Judge, had known of it, he would have so informed the AIT. However, the fact remains that the Immigration Judge put some, possibly critical, reliance upon the absence of a social services assessment.

### 13.4 Case of AA Afghanistan and Age Dispute Cases

If presenting staff come across a case at an appeal hearing **where the immigration judge finds that at the date of making their asylum application the appellant was a child**, however at the date of the appeal hearing the applicant is an adult, they must inform the case owner. Advice should be sought from a Senior Case Worker, since such cases are likely to fall within [AA \(Afghanistan\) v Secretary of State \(2007\) EWCA Civ 12](#).

### 13.5 Making submissions in age dispute cases

Reliance can be placed on the local authority age assessment, explaining the rationale for considering the appellant as an adult (*B v London Borough of Merton* [2003] EWHC 1689 (Admin)).

Some important observations were made by the judge in the above case:

*"In a case such as the present, the applicant does not produce any reliable documentary evidence of his date of birth or age. In such circumstances, the determination of the age of the applicant will depend on the history he gives, on his physical appearance and on his behaviour."*

*"Of course, there may be cases where it is very obvious that a person is under or over 18. In such cases there is normally no need for prolonged inquiry; indeed, if the person is obviously a child, no inquiry at all is called for. The present is not such a case. The difficulty normally only arises in cases, such as the present, where the person concerned is approaching 18 or is only a few years over 18. But the possibility of obvious cases means that it is not possible to prescribe the level or manner of inquiry so as sensibly to cover all cases."*

*"Given the impossibility of any decision maker being able to make an objectively verifiable determination of the age of an applicant who may be in the age range of, say, 16 to 20, it is necessary to take a history from him or her with a view to determining whether it is true. A history that is accepted as true and is consistent with an age below 18 will enable the decision maker in such a case to decide that the applicant is a child. Conversely, however, an untrue history, while relevant, is not necessarily indicative of a lie as to the age of the applicant. Lies may be told for reasons unconnected with the applicant's case as to his age, for example to avoid his return to his country of origin. Furthermore, physical appearance and behaviour cannot be isolated from the question of*

*the veracity of the applicant: appearance, behaviour and the credibility of his account are all matters that reflect on each other”*

*“The assessment of age in borderline cases is a difficult matter, but it is not complex. It is not an issue which requires anything approaching a trial, and judicialisation of the process is in my judgment to be avoided. It is a matter which may be determined informally, provided safeguards of minimum standards of inquiry and of fairness are adhered to.”*

The judge’s observations and other factors arising out of the particular case have led to the term “Merton-Compliant Assessment” being used to describe an approach to assessing age that conforms to generally accepted standards of fairness and good practice. The judgment does not prescribe exactly how social workers should assess age. Rather, the judgment sets out broad guidelines on how the issue of assessing age should be approached and how the final decision should be made.

Presenting Officers should have regard, in particular, to:

- *The Health of Refugee Children: Guidelines for Paediatricians.*
- The comments of the judge in the case of *A v London Borough of Croydon & SSHD; WK v SSHD & Kent County Council [2009] EWHC 939* , in particular at paragraphs 33, 34 and 80 (though note also that this case is being appealed to the Court of Appeal):

*33. Thus I do not think that the existence of a report from Dr Birch can generally attract any greater weight than the observations of an experienced social worker. In order to comply with the Hillingdon and Croydon guidelines, the assessments of social workers will be made by two working together and based upon interviews and observations over a far greater time period than that available to Dr Birch or indeed any paediatrician instructed by a UASC representative. There can also be an input from those who are able to observe how the individual behaves when not being interviewed and when it can be assumed he is demonstrating his normal behaviour. All this is capable of providing a more reliable assessment. Overall, I prefer the views of Dr Stern to those of Dr Birch. It would lengthen this judgment to no good purpose if I sought to reproduce the views of each side to any further extent.*

*34. I do not however think that LAs or the Secretary of State can in general disregard reports from Dr Birch or any other paediatrician. I shall deal with the ad hominem criticisms made by Kent, but I am now considering the question in general terms. It may be that a particular matter identified by the doctor has not been taken into account. In A's case, for example, it is said that Dr Birch identified his limited intellectual abilities and this had not been taken into account by the social workers. Whether that should have made a difference will have to be considered, but I have no doubt that in general Croydon's and the Secretary of State's approach is correct. However, it is for them to decide how much weight to attach to such a report and it is in a given case open to the decision maker to attach no weight. For the reasons I have given, I would expect that only in rare cases would such a report persuade the decision maker to reach a different view.*

*80. “...The point is whether the authority or the Secretary of State is entitled in law to prefer the social workers' assessment to that of Dr Birch or another paediatrician. Generally speaking, they are and no error of law is shown if they do.*

## 14. Implementing an Immigration Judge's decision that the appellant is a child

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### 14.1 An immigration judge finds the applicant to be a child

Where an asylum appeal has been unsuccessful, but the immigration judge nevertheless finds the appellant to be a child, the UK Border Agency will accept this outcome in most cases, and proceed to treat the person as a child.

However, the UK Border Agency is not inevitably bound by such a finding on age for all purposes. If there are outstanding decisions which depend on age but on which the IJ has not directly adjudicated, the SSHD must give appropriate weight to the Judge's consideration of age, and must have a **sound and rational** reason to depart from it. For example: where it is established that the Immigration Judge did not have before him a full and detailed local authority age assessment that concludes the appellant to be an adult it may be possible to prefer the assessment.

Before a decision is made to depart from the judge's finding on age, case owners **must** in the first instance, seek advice from the Asylum Complex Advice Team, who will liaise with Legal Adviser's Branch where required.

### 14.2 Where the local authority considers applicant as an adult, but the UK Border Agency have accepted the applicant as a child

When an Immigration Judge has found that an age disputed applicant is a child, and the UK Border Agency minded to accept this view, the local authority must be asked **in writing** to review their assessment of age in light of the appeal outcome.

Where the local authority refuses to reconsider their original decision or they decide to maintain their original view following a further age assessment, the issue of accommodation and support must be carefully considered.

For further guidance in this situation, case owners should, seek advice from a Senior Case Worker, consult the Age Assessment Joint Working Protocol (attached at 4.1 above) or alternatively contact the Asylum Complex Advice Team.

[Back to contents](#)

## 15. Recording Age Dispute Details on Asylum Correspondence

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### 15.1 General Correspondence

In any letter to a disputed age applicant or their representative (e.g. in the Reasons For Refusal Letter), all references to the applicant's claimed date of birth must be accompanied by a note to the effect that the date is disputed by the UK Border Agency.

Immediately after any mention of the date of birth '(disputed)' (within brackets) must be written, including where the date of birth is given as a part of the applicant's bio-data in the head of a letter as given in the example below.

Name: **Name**

Nationality: **Nationality**

Date of Birth: **10 April 1994** (disputed)

[Back to contents](#)

# Process Map

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APPLICATION FOR ASYLUM
Day 0 to Day 1



RECEPTION/SCREENING INTERVIEW – FINGERPRINTS AND PHOTOGRAPH
<ul style="list-style-type: none"><li>▪ Applicant is served with Form ICD.1162 or IS97M stating that age is disputed.</li><li>▪ Applicant is issued with ARC.</li><li>▪ Doubtful cases referred to local authority requesting Merton-compliant age assessment.</li><li>▪ Cases where appearance strongly suggests person to be significantly over 18 years are treated as an adult asylum seeker (steps below do not apply)</li></ul>



ASYLUM ROUTING TEAM'S ACTIONS
<ul style="list-style-type: none"><li>▪ Case is routed as disputed age case to an Asylum Team and specialist Case Owner.</li><li>▪ Applicant is issued with Statement of Evidence Form Self-Completion (SEF) to be returned to Case Owner by Day 20.</li><li>▪ Applicant is also issued with IS.96 or IS.248 for FRE on Day 10.</li><li>▪ Case Owner liaises with local authority to ensure that a Merton-compliant age assessment has been requested and establishes when the report will be available.</li></ul>



FIRST REPORTING EVENT (FRE)
<p><b>Day 10</b></p> <p><b>If Merton-compliant age assessment or other acceptable evidence has established the applicant is a child:</b></p> <ul style="list-style-type: none"><li>▪ Applicant must be issued with ASL.2381 and Panel of Advisers informed that the age dispute has been resolved.</li><li>▪ Case Owner explains their role, the asylum process and possible outcomes.</li><li>▪ Case Owner issues letter of invitation to interview for Day 25.</li></ul> <p><b>If Merton-compliant age assessment or other acceptable evidence has established the applicant is an adult, the case will be treated as an adult case</b></p> <ul style="list-style-type: none"><li>▪ Case Owner issues letter of invitation to interview for Day 15.</li><li>▪ Return of SEF unnecessary.</li></ul> <p><b>Otherwise:</b></p> <ul style="list-style-type: none"><li>▪ Case Owner continues to treat as disputed age case and issues letter of invitation to interview for Day 25.</li></ul>



RETURN OF SEF
<p><b>Day 20</b></p> <p>SEF must be received by the Case Owner.</p> <p>If SEF not received, the Case Owner must chase it up.</p> <p>If Merton-compliant age assessment report not yet received, the Case Owner must chase it.</p>



ASYLUM INTERVIEW
<p><b>Day 25</b></p> <p><b>If Merton-compliant age assessment or other acceptable evidence has established the applicant is a child:</b></p> <ul style="list-style-type: none"> <li>▪ Applicant must be issued with ASL.2381 and Panel of Advisers informed that age dispute has been resolved.</li> <li>▪ Applicant must be interviewed as a child.</li> <li>▪ Case Owner must give five working days after this for the submission of further representations.</li> </ul> <p><b>If Merton-compliant age assessment or other acceptable evidence has established the applicant is an adult:</b></p> <ul style="list-style-type: none"> <li>▪ Applicant will be treated as an adult.</li> <li>▪ Case will not need to be rerouted if applicant does not require accommodation.</li> <li>▪ If applicant needs accommodation, it may be necessary to reroute the applicant to a Case Owner in an Asylum Team outside London/South East.</li> </ul> <p><b>Otherwise:</b></p> <ul style="list-style-type: none"> <li>▪ Case Owner continues to treat applicant as a disputed age case and interviews as a child.</li> </ul>



DECISION SERVICE EVENT
<p><b>Day 31-35</b></p> <ul style="list-style-type: none"> <li>▪ If age dispute not resolved, DL under UASC policy <b>MUST NOT</b> be granted.</li> <li>▪ If age dispute resolved, treat as child or adult accordingly.</li> </ul>



GRANTED REFUGEE STATUS
------------------------

REFUSED REFUGEE STATUS, HP AND DL UNDER GENERAL POLICY
GRANT DL UNDER UASC POLICY IF CHILD CANNOT BE REMOVED



CASE COMPLETED
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APPEAL
By Day 41-45

GRANTED HP OR DL UNDER  
GENERAL POLICY

▼

APPEAL
By Day 41-45

▼

SUCCEEDS	FAILS
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▼

IMPLEMENT DECISION AND CASE COMPLETED	MAINTAIN DECISION AND CASE COMPLETED
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▼

SUCCEEDS	FAILS
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▼

IMPLEMENT DECISION AND CASE COMPLETED	MAINTAIN DECISION AND CASE COMPLETED MAINTAIN CONTACT UNTIL APPLICANT CAN BE REMOVED
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[Back to contents](#)

# Document Control

## Change Record

Version	Authors	Date	Change Reference
1.0	E.Gomez	30/03/07	New web format implemented
2.0	A. Juneja	20/08/08	New arrangements for screening minors.
3.0	P. Roberts	02/11/09	Revised UASC guidance and s55 duty
4.0	P.Roberts	03/11/09	Minor amendments
5.0	P.Roberts	05/11/09	Amendment to section 11

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## Review

Reviewed By Name	Date	Position
I.Walsh	30/03/07	Director, Asylum Policy
C.Peckover	30/03/07	Head of Design
B.Thompson	02/11/09	Complex Advice Team
R.Honeyman	03/11/09	Complex Advice Team
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## Issue Control

Approved for Publication by Name	Date	Role
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K.Lambert	02/11/09	Director, Guidance Litigation Advice
B.Thompson	03/11/09	Deputy Director, Complex Advice Team
B.Thompson	05/11/09	Deputy Director, Complex Advice Team

# AGE ASSESSMENT

JOINT WORKING PROTOCOL

BETWEEN

IMMIGRATION AND NATIONALITY DIRECTORATE

OF THE HOME OFFICE (IND)

AND

ASSOCIATION OF DIRECTORS  
OF SOCIAL SERVICES (ADSS)

*For UK Local Government and  
Statutory Childcare Agencies*

**Version One**

**22<sup>nd</sup> November 2005**

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<b>AGE ASSESSMENT JOINT WORKING PROTOCOL</b>	<b>34</b>
1. Purpose of the Document	34
2. Introduction	34
3. Situations where age assessment may be required	34
4. Partners to the Protocol	34
5. Principles	35
6. Aims	35
7. Outcomes	35
8. Information Sharing	35
9. Process	36
10. Where IND is first agency contacted by an applicant claiming to be a UASC,..	36
11. Where the LA is first agency contacted by an applicant who claims to be a child and indicates that they wish to seek asylum.	37
12. Where a LA accepts an applicant as a child under 18 years but immediately doubts the accuracy of the age given. In these cases only the LA is likely to adjust the age of an applicant accepted to be a child.	37
13. Where information with a bearing on age assessment emerges later in the asylum process.	37
16. <i>Recording (yet to be agreed)</i>	39
17. Additional Guidance on LA referral processes.	40
18. NEGOTIATED BY	40
19. DRAFTED BY	40

# AGE ASSESSMENT JOINT WORKING PROTOCOL

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## 1. Purpose of the Document

This Protocol sets out arrangements to support a co-operative approach to age assessment between;

- The Immigration and Nationality Directorate of the Home Office (IND)

and

- UK Local Authorities and Statutory Child Care Agencies (referred to as LAs).

The protocol has been agreed between IND and the Association of Directors of Social Services (ADSS). ADSS is the senior professional body in social work that represents senior child care managers in all English LAs and has affiliations with organisations in Scotland, Wales and Northern Ireland. One of the functions of ADSS is to set out policies and processes for children's social workers and children's services. Reconciliation of LA assessments with IND Age Determinations, is primarily a professional issue. For this reason ADSS is acting for all LA and has ensured appropriate consultations across LA and local government associations.

## 2. Introduction

Children and young people from abroad may need to have their age assessed for various reasons. In particular, young people who claim asylum may require an age assessment as:

- IND needs to be clear about whether an applicant is over or under 18 as this will determine which asylum process and asylum support arrangements are appropriate; and
- LA have a statutory duty to assess the situation of children in need. In order to do so they may need to decide on an applicant's age. This applies not only to whether someone aged 18 or over but also for children whether they have reached the age of 16 as this affects rights to statutory education, as well as working and benefit entitlement.

It is clearly desirable that both agencies have a process for sharing information and for resolving disputes and disagreements between the agencies about individual applicants.

## 3. Situations where age assessment may be required

Age assessment is increasingly required by agencies working with asylum seekers and unaccompanied asylum seeking children (UASC). The age of other children from abroad in need of care or support may also need to be determined even though they are not asylum seekers or unaccompanied. Disputes over age arise for various reasons.

- Not all countries and cultures attach the same importance to chronological age, and birth records are therefore afforded less importance.
- Recording conventions and calendars are different in other countries and may not be easily reconciled with UK systems.
- Adults may wish to avail themselves of asylum processes and support arrangements made for children, as these are perceived to be more favourable.
- With other children there may be a need to assess their age for protection or care reasons e.g. Traffickers may present young people as older or younger in order to avoid immigration controls or social services checks.

## 4. Partners to the Protocol

This protocol has been developed by IND and LA, represented by the ADSS Task Force on Asylum Seekers. It is intended to enable relevant agencies to carry out their separate statutory duties to assess asylum claims from, or provide support services to, both UASC and former UASC.

It is important to recognise that while IND has specific legal powers to look into and determine age, LAs do not. Their duty is to discover and assess children in need in their

area. It is only as part of that assessment process that the question of age may be considered by a social worker.

## 5. Principles

There should be:

- Minimal delays in making decisions;
- Clear procedures for agencies making decisions and for young people to challenge decisions;
- Consideration of all available evidence;

and

- That the information shared between the partner agencies should be within the framework and for the purposes set out in this Protocol.

## 6. Aims

To establish jointly agreed working procedures, communication channels and recording conventions that will,

- a) Identify whether or not a person claiming to be a UASC is in fact a UASC correctly and promptly.
- b) Establish contact with the most appropriate agency urgently, where support is required.
- c) Ensure that appropriate asylum processes are followed for children or adults respectively.
- d) Ensure that decisions about and/or transfers of responsibility based on dates of birth (DOB) follow an agreed and understood process for identifying and recording any differences between the claimed DOB and the assessed DOB in disputed cases.
- e) Reconcile the basic data on the applicant contained in the documents and records of the partner agencies and which may be required by other statutory agencies providing services.
- f) Better identify the age of other migrant children at risk who are applying for entry to the UK.

## 7. Outcomes

- Clear and agreed determinations on whether asylum applicants and other migrant children are over or under 18 years of age, where their age is not known or is disputed by a partner agency.
- To agree appropriate adjustments of the age of UASC or other children from abroad accepted as being under 18, where the DOB is not known or is found to be incorrect at assessment.

## 8. Information Sharing

IND will share information on the reasons for age disputing any individual case with the LA on the basis of the need to protect and promote the welfare of children or to prevent fraud by adults claiming to be children. Information should be requested through the Central Point of Contact (CPC).

LA assess age as part of the overall assessment of children in need rather than as a discreet process. In keeping with the guidance on information sharing in the ADSS guidance a proforma has been devised to summarise the findings of the assessment without being over inclusive of information obtained in the assessment process, and collected for other purposes.

IND can contact the named social worker, who carried out the assessment to discuss any concerns about the assessment and its outcome. In particular cases, for example where a change of age may cause a review of immigration decisions already taken, there may be a clear need to share the full LA assessment with IND. Where asylum or grant of leave

decisions have been made, the re-assessment may mean that the basis for the decision or “grant of leave” is no longer valid. A full written assessment from the LA will be necessary to review the applicant’s leave to remain in the UK.

#### **9. Process Where IND is first agency contacted by an applicant claiming to be a UASC,**

- a. IND apply their age determination policy and process in all cases.
- b. Where IND determine that the applicant is to be treated as a child the applicant should be referred to the appropriate LA if IND can find no suitable adult prepared to care for and protect them. (Referral process below).
- c. Where IND determine that the applicant, claiming to be a UASC, is an adult they will be informed of this decision (and the reasons for it) and the right to apply to NASS for support. They will also be given a Notice of Age Dispute stock letter (ACD.1162 or IS97m) which will inform them of their right to approach a LA social services department (SSD) for an assessment as a possible child in need. (The letter states that the issue of their age will be separately assessed by the SSD).
- d. If the applicant contests an IND determination of adult status, the IND officer will inform them verbally of their right to approach a LA for an assessment as a possible child in need. As stated above, the IND Notice of Age Dispute will also contain this information (referral process below).
- e. If an applicant, determined to be an adult, submits further evidence to IND or otherwise continues to dispute the age determination, IND will seek to involve the relevant LA as part of any review of their decision.(See Section 4 below).
- f. IND will refer all age disputed cases to the Refugee Council Panel of Advisers.
- g. Where IND determine that an applicant is to be treated as a child and refer them to the appropriate LA, that LA will conduct a child in need assessment of the applicant. If the LA accepts that the applicant is a child in need of their services they will notify IND via the CPC on the same day. If on the other hand the LA assesses the applicant to be an adult they will inform IND as soon as possible. On notification IND will review their decision in the light of the findings of the assessment and amend their records appropriately. In the event that they do not accept the LA assessment, any differences will be dealt with according to the procedures set out in this protocol.
- h. Notification will be on an agreed proforma and via agreed channels only to reduce the opportunities for miscommunication or fraud.
- i. Where IND determine that an applicant is an adult and the LA supports the IND age determination of adult status, the LA will ensure that the applicant is aware of the need to make an immediate approach to NASS who will decide whether they are eligible for support.

NB. It is vital that both agencies communicate disputes and decisions at the earliest possible opportunity. Delay in notifying changes of status can be extremely prejudicial to the welfare of the applicant and could lead to incorrect decisions and/or loss of support.

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**10. Where the LA is first agency contacted by an applicant who claims to be a child and indicates that they wish to seek asylum.**

- a. The LA will conduct an age assessment to assess whether the applicant appears to be a child in need (in the first instance) on the same day.
- b. If the LA confirms through an age assessment that the applicant is a child they will arrange for the child to contact IND to make an asylum claim at the earliest possible opportunity (on the first working day). They will provide supporting documentation i.e. the age assessment proforma to IND, and also inform IND through the central point of contact that they are treating the applicant as a child.
- c. If the LA considers the applicant to be an adult they will inform IND about the approach through the central point of contact. The LA will also notify/advise the applicant of the need to make an immediate approach to IND to record their asylum claim as soon as possible and to NASS who will decide whether they are eligible for support. It is necessary to track these assessments to limit any requests for fresh assessments of age
- d. In the event that IND receive an LA assessment that an applicant is an adult they will treat them accordingly but routinely refer them to the Refugee Council Panel of Advisers, as part of the agreement on age disputed cases.

**11. Where a LA accepts an applicant as a child under 18 years but immediately doubts the accuracy of the age given. In these cases only the LA is likely to adjust the age of an applicant accepted to be a child.**

- a. The LA will assess the age of the applicant and immediately inform IND of the outcome via the central point of contact and on the agreed proforma. The procedures for informing the applicant are a matter for LA guidance.)
- b. The agencies will agree an effective age and date to facilitate transfers to services, which have an age qualification. (**Process to be defined**).
- c. Information on the LA age assessment proforma will be passed to IND as soon as possible to allow its inclusion in the caseworker's considerations.
- d. In a very few cases where the LA is waiting for outstanding information or specialist assessments they will notify IND of the reasons for the delay via the CPC as early as possible.

**NB. It is important for the LA to bear in mind IND targets to make decisions on asylum claims within two months. If IND are informed of outstanding issues early they may be able to delay decisions pending the outcome, provided it does not exceed the two months target.**

**12. Where information with a bearing on age assessment emerges later in the asylum process.**

**There are occasions when IND or the responsible LA only receives information bearing on the age or credibility of an applicant much later in the process. Where such new information merits a reassessment of age of an asylum seeker, it is important that the agencies follow processes consistent with those above to avoid applicants being left without appropriate support.**

- a. The agency wishing to effect a change will notify partner agencies through the CPC.
- b. If the asylum seeker is currently classified as a child the LA will conduct a re-assessment and send a full written assessment to inform IND within 7 days. In some

case the LA will find out through the CPC that legally binding decisions and grants of leave have been made by IND. In these circumstances a full written assessment of the reasons for changing the age is required.

- c. If the asylum seeker is currently classified as an adult they might submit evidence to NASS or IND which IND accepts as proof that they are a child. In such a case IND will refer the applicant to the relevant LA and continue to provide interim support pending the outcome of the LA assessment provided it is completed within 7 days. If the LA assesses the asylum seeker, to be a child, then a prompt date for the applicant to transfer to LA support, not more than 7 days from the outcome of the assessment must be agreed.

**NB. Where a LA assumes responsibility for someone they assess to be a child, but whose asylum application has been processed as an adult, it is vital that they liaise immediately with IND via the CPC. Immediate notification to IND may prevent an unnecessary appeal regarding age or removal based on adult status.**

### 13. Conflicting assessments

#### a) Between IND and a LA

In many cases it is likely that IND's assessment will be consistent with that of the LA. In some cases IND's assessment will differ from that of the LA; for example if IND believe that specific evidence, e.g. a document, has not been sufficiently taken into account or there are concerns that the person presenting to IND is not the same person as seen by the LA.

In such a case IND frontline staff should discuss the case with the named contact at the LA in the first instance. For example they should point out contrary evidence that they believe may not have been properly considered by the LA.

In the event that neither party can persuade the other as to the correctness of their determination the case will be referred to the Asylum Policy Unit and a formal reconciliation attempted with the LA within 7 working days.

In the interim pending a reconciliation the applicant should be supported in accordance with the LA assessment.

If no agreement is reached through this process the matter will be referred for binding adjudication to a nominated third party.

#### b) Conflicting LA assessments

LA responsibility is tied to geographical boundaries and it is therefore possible that an asylum seeker moving across these boundaries may seek age assessment from more than one LA. In some cases the assessments may not agree.

It is the intention of the ADSS to reduce unnecessary repetition of the assessment process and therefore the following guidance should be followed.

A LA approached for an age assessment should check whether any previous assessment has been carried out by another LA. The host LA should request a copy of the age assessment from the original LA and base further action on the content.

In the event that no new evidence is being brought forward that was not considered at the original assessment, the issue should be treated as a complaint about the original assessment and referred to the LA responsible for it.

In the event that new evidence has been brought forward the host LA should continue to reassess the age of the applicant taking full account of all sources of information.

In the event that IND is aware of conflicting assessment of age from different LAs it will continue to follow the first decision notified to it unless and until new evidence is submitted as part of a properly conducted new assessment.

#### **14. Reasons for Establishing Formal Contact Arrangements**

It is necessary to establish clear channels of communication to ensure that prompt and confidential communications about vulnerable children reach the right people within the partner agencies.

It is necessary to control the means of communication to minimise the opportunities for fraud e.g. the production of counterfeit documents. It is planned that the new national register of unaccompanied children (NRUC) will assist fraud reduction measures by providing electronic access to data including photographs of applicants.

It is necessary to use agreed, recognisable and mutually understood forms to guarantee the quality and consistency of decisions and assessment to the partner agency.

Remote contact from LAs to IND about individual cases will only take place in the first instance through the Dedicated Helpline for UASC in the CPC. Once contact has been established named officers or caseworkers from each agency will be responsible for settling outstanding issues and resolving disputes.

In non-emergency situations contact from IND to LAs will only take place in the first instance through nominated LA contact officers logged with the CPC. Once proper and accredited contact has been established, named workers will be responsible for the continuation of communications about that case.

All age assessments by LAs must be communicated to IND on the agreed Proforma. This is intended to minimise misunderstandings and disagreements between frontline staff in respective agencies. IND reserve the right to reject an age assessment where there is clear reason to doubt it; for example where an applicant is found to be using the age assessment prepared for someone else.

#### **15. Recording (yet to be agreed)**

Agencies will record the given DOB but indicate it is disputed. In the case of asylum

seekers assessed and determined to be adults the DOB may not be material provided that IND documentation shows them as age disputed. However in the case of UASC whose age is adjusted by assessment, both agencies will need to agree an effective date at which age qualification for other services will take place, e.g. accessing benefits or transfer to NASS at 18 (if the assessed age is different from the claimed DOB).

### *Reconciliation of Records*

*LAs have the responsibility to ensure that IND are informed of changes of assessed age promptly. In the event that the LA assesses the applicant to be an adult they will not be able to access NASS without proper notification.*

*In the event that a LA decides to treat an age disputed case as a child and proper notification is not provided the discrepancy may not be discovered until IND check the LA datamatching returns. In these circumstances the LA will not be able to claim UASC grant for the individual until IND has been properly notified of the assessment appropriately. IND will issue amended documentation within 7 days of accepting a change, with a copy/notification to the responsible LA. UASC grant can be claimed from the date that IND acceptance of change is received by the LA.*

*It is anticipated that NRUC will provide LA with a ready method of identifying and adjusting discrepancies between their records and those of IND.*

## **16. Additional Guidance on LA referral processes.**

Where an asylum seeker who may require LA services gives an established address in a LA area IND will refer to the LA responsible for the relevant area. However if there is thought to be immediate risk to a child, either at the address or from an adult who is in charge of the child, IND will seek the assistance from the LA covering the area where the child is.

If the asylum seeker has no established address but attends with a legal representative then IND will refer to the LA covering the legal representative's premises.

Where an asylum seeker has no address and appears either very young (under 16) or otherwise in urgent need IND will refer to the nearest LA.

Other voluntary arrangements made between LAs on referral mechanisms

Currently the Refugee Council organises a voluntary rota on behalf of London Boroughs. It operates for children in the following circumstances,

The child is aged 16 or 17

S/he has no discernible urgent needs

S/he has no known address

S/he is not accompanied by a legal representative.

IND will refer children in these circumstances and only in these circumstances to the Refugee Council who ensure that a LA takes responsibility according to this voluntary rota.

It is proposed to establish social work teams on a pilot basis at ports and asylum screening units. Where these teams are established they will develop a local protocol for determining LA responsibility with the immigration service.

## **17. NEGOTIATED BY**

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