

Age Assessment: A Practice Guide



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The professional association for
social work and social workers

INTRODUCTION

Aspects of the wider UK immigration and asylum system are increasingly at risk of breaching both international law and conventions on human rights. Human rights are central to social work and are embedded in the BASW Code of Ethics. While BASW is active in campaigning for the human rights of unaccompanied asylum-seeking children the purpose of this guide is to address best practice for age assessment rather than the wider legal and policy issues in relation to immigration and asylum.

In doing so, the guide aims to address the realities of undertaking age assessments within the current system. Consequently, it is important to emphasise that in describing a situation the guide is not necessarily endorsing that situation.

The age assessment of unaccompanied children and young people is an established part of social work practice. This role was formalised by the Merton judgement¹ which set out the key criteria for age assessment. This role has now been given statutory footing by the Nationality and Borders Act 2022 and the Illegal Migration Act 2023.

But it is also worth thinking *why* this vitally important task might have come to social workers in the first place. The purpose of age assessment should be about helping to meet the needs of children and young people². Age assessments were also used by the Home Office, and young people's legal advisors, for the purposes of immigration and asylum claims. Under new legislation age assessments will now determine which persons as unaccompanied children may be exempt from removal.

This guide will be of use to social workers undertaking age assessments across the UK as well as social work managers. Although the legislation and policy affecting social work differs across the four jurisdictions of the UK (England, Scotland, Northern Ireland and Wales) immigration and asylum law and policy is, of course, UK wide.

The guide uses the term 'child' to describe a person who is under 18, 'young person' to describe a person who may be under or over 18 and 'age – disputed person' where that terminology is necessary to describe a working of the Nationality and Borders Act 2022 or the Illegal Migration Act 2023³.

Social workers undertaking age assessments will be in contact with other professionals and co-workers in the wider immigration and asylum system. Consequently, this guide addresses the interface with those in other roles in different parts of the system with a view to improving the situation for children and young people seeking asylum.

This guide aims to capture and share existing good practice while dealing with the common challenges that social workers face in undertaking age assessment. However, as this guide is being written new legislation is being implemented (The Nationality and Borders Act 2022 and the Illegal Migration Act 2023). The guide aims to anticipate the implications of some of these legal changes, but some of the implementation and consequences are currently unknown and this guide will be supplemented by regular updates in the BASW bulletin. You will receive these if you are a BASW member.

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1. Summary of main points

The function of this summary is to act as a 'memory jogger' in undertaking the process of an age assessment. By itself it is not a substitute for reading the full text of the practice guide.

Preparing for the age assessment interview:

- Read the relevant country of origin reports.
- Put in place measures to reduce stress for the young person being interviewed.
- Book an interpreter, checking that they speak the right regional language or dialect - not just the 'headline' language.
- Give the young person adequate notice of the interview and take account of any specific needs or requests.
- Book the appropriate adult.
- Consider whether the interviewing social workers and interpreter are of the appropriate gender.
- Get the physical setting right.
- Consider who will lead the interviews and how the interview should be recorded.

Undertaking the age assessment interview

- Use a 'circular' approach as recommended by the Merton judgement.
- Consider a range of factors – including development and trauma – in making your assessment of age.
- Consider wider factors, for example, culture.
- Use other sources of information in your assessment, for example, the views of foster carers or teachers.
- If you use social media as part of your assessment, consider carefully the issues set out in this guide.

Reaching a decision

- Weigh *all* the evidence carefully.
- Once an initial conclusion has been reached conduct a 'minded to' meeting.
- Conduct the decision meeting.
- Write up all aspects of the work you have undertaken as it occurs.

2. What is age assessment?

Age assessment is a process for allocating a specific age or age band to an age-disputed person which will determine the ongoing provision of services and ultimately the consequences for removal of an age-disputed person under the Illegal Migration Act 2023. Under the Act the Government has given the Home Secretary the duty to remove people over 18 from the UK. Age assessment undertaken by social workers thus has significant consequences.

Children have specific age-related needs: this includes needs for care and support, health and education. Age assessment is therefore part of the wider social work task of assessing the needs of the child⁴ and then meeting those needs through the provision of a range of services. Clearly, if the young person is assessed as not being a child responsibility for meeting the needs of that person will lie elsewhere.

The risk is that with an ever-increasing political rhetoric of immigration control the function of age assessment in meeting the needs of the child and young person becomes ever more marginal and the social work role along with it.

The original guidance on age assessment was set out in a legal case between *B v London Borough of Merton*⁵, hence the phrase 'Merton compliant' age assessment.

There is no method of age assessment that can predict chronological age with precision. Under the Nationality and Borders Act 2022 and the Illegal Migration Act 2023 the Government will be introducing 'scientific methods' of age assessment, although its own advisory committee estimates that these techniques will only be accurate within an age range of 5 years⁶.

Consequently, the professional judgement of social workers is, and will remain, paramount in assessments of age. This is a significant responsibility upon which much depends.

3. Why do age assessment?

Knowing the age of a person can be key to understanding and then meeting their needs. This is particularly true of children. A fourteen-year-old child will often have very different needs to a child of sixteen and may be treated differently in law. In the absence of sufficient documentary evidence (for example, a birth certificate or passport) so one can be sure of age, age assessment is a necessary process to meet the needs of the child.

Age assessments which are inaccurate have major safeguarding consequences⁷. An adult, incorrectly assessed as a child, may be placed with children. A child incorrectly assessed as an adult will be placed with adults. Children wrongly placed with adults will be at greater risk than children who share a placement with a wrongly placed adult - simply because for the latter there are more safeguards in

place. However, once the relevant provisions of the 2023 Illegal Migration Act are brought into force (which hinges on the outcome of the decision in the Rwanda case in the Supreme Court) children wrongly assessed as adults will be removed with no assessment of their protection or human rights claims.

A proportion of young people are age assessed by social workers as not being children and consequently not the responsibility of children's social work services. Under the Illegal Migration Act 2023, if a young person who is found after an age assessment not to be a child their protection and human rights claims will be inadmissible and the Home Secretary bound to remove them from the UK.

But, whatever their age, and migration status, they may also have needs that must be met. This issue will be given specific attention later in this practice guide.



4. Is an age assessment necessary?

The process of an age assessment is stressful for the young person. It is also a major piece of work for the social worker. There may be some circumstances where there is no doubt as to the person's age. For example, it may be very obvious that the person is a child or young person or there may be independent documentary evidence such as a passport. (Where documentation is presented, this will need to be verified). In such cases the Home Secretary is unlikely to question or doubt a local authority's assessment.

A significant number of young people claiming asylum in the UK will not have independent or reliable documentary evidence to prove their age and where there are doubts about a claimed age, an age assessment will be necessary.

5. Why might young people not be able to provide independent documentary or reliable evidence to support their age claim?

By independent or reliable documentary evidence this guide means documents issued by a recognised third party to confirm chronological age.

States in 'the global north', including the UK, rely heavily on official documentation. For example, in the UK we might support our claim to be of a certain age by showing a birth certificate, a driving licence or a passport. In each of these cases, 'the recognised third party' is the UK government.

Other countries differ in degree on the importance of formal documentation. Individuals coming from a range of countries may not be carrying a birth certificate or passport simply because they never had one issued in their originating country in the first place. Many who had a birth certificate, or a passport, may have lost it fleeing from their country of origin. Or they may have brought it with them but may have had lost it or had it stolen. Many may have been told it was in their best interests to destroy it or throw it away.

6. The process leading up to a social work age assessment

Once in the UK, the first contact for a young person claiming asylum will likely be an officer of Border Force.

Border Force officials have their own age assessment guidance⁸ and are obliged to refer individuals who claim to be a child, and whom they believe to be under 19, to be age assessed⁹.

Certain circumstances (for example, asylum seekers disembarking in a lorry park) may mean that the police will be first on the scene. Unlike Border Force, police officers are not authorised to carry out any form of age screening and if the young person claims or looks to be a child contact will be made with children's social work services.

For the reasons set out in sections 7-13, an age assessment undertaken in a police station is very unlikely to be Merton compliant. Young people should therefore be transferred to accommodation provided by children's social work services and a Merton compliant age assessment should take place as soon as possible thereafter.

If the social worker can be certain without conducting an age assessment that the young person is an adult, and therefore should not be accommodated, they must be sure that that is the case, since if the individual is a child a failure to accommodate that child will have significant implications for the child, the social worker and the local authority. Most importantly, the person will face deportation. (See also section 23 on initial assessment and full assessment).

Preparing for the age assessment interview

7. Country of origin reports

Country of origin reports provide information on the circumstances and situation in a specific country as well as enriching the cultural competence of the social worker. Various organisations prepare and disseminate such reports for a variety of reasons. For example, the UK Foreign and Commonwealth Office prepares reports to inform decisions on asylum and immigration¹⁰ (known as CPINs – Country Policy and Information Notes) while NGO's may prepare reports as part of advocating for the claims of individual or specific groups of asylum seekers¹¹. Country of origin reports should be objective and therefore the reports used must be from recognised and reputable organisations. That does not mean to say that every country of origin report is accurate in every respect¹² so it is worth checking country of origin reports from at least two different sources.

Country of origin reports can be valuable to social workers since they can provide information on specific national, political, cultural, ethnic or religious circumstances. Consequently, references by the young person in an interview are more likely to be both understood and put in context from the earliest opportunity. Country of origin reports also allow social workers to take into account ethnic, cultural and religious issues for a country that the social worker may be unfamiliar with.

Social workers should read country of origin reports *before* starting the age assessment interview.

When reviewing interview notes social workers may wish to revisit country of origin reports.

Documenting that the country of origin reports have been read is an important part of an age assessment. If a key part of the age assessment decision relies on information from a country of origin report, the report should be fully referenced in the age assessment.

8. The age assessment process and stress

Being subject to an age assessment interview is stressful for a young person, so taking every step to help reduce that stress is key. Factors to reduce stress include giving adequate notice of the interview, considering the gender of the interviewing social workers, consulting young people on the duration and frequency of meetings, effective use of the interpreter and the appropriate adult and getting the setting right. These are each dealt with in more detail below.

Given that age assessment interviews are stressful, questioning should be proportionate, that is, once sufficient material has been gathered to evidence an assessment decision, further questioning to secure more details can cease.

Documenting the actions taken to reduce stress might be useful if the assessment is challenged at tribunal.

9. Working with interpreters

While it is not a legal obligation¹³ the view of this practice guide is that an age assessment must be conducted with a professional interpreter.

However good a young person's 'everyday' English is, the nature of the conversation may involve use of English where the young person does not understand the questions of the social worker and/or may not be able to articulate what she/he may want to say in English.

Check that the interpreter is able to interpret not only the 'headline' language of the country concerned but also the relevant regional language or dialect¹⁴.

Using an interpreter is good professional practice, but it is also true that the absence of an interpreter may open the social worker's age assessment to criticism on review or appeal.

10. Giving adequate notice

As the first step, a young person should be given adequate notice of the first age assessment interview. This allows the young person to prepare for the interview.

This is both a common courtesy (who wants an important interview sprung on them with no warning?) but also if there is a legal appeal failure to give sufficient notice of the interview without a good reason could be an argument used against the social worker's assessment.

By adequate notice, this guide means at least two days and ideally longer. It is also recognised that circumstances may mean that this is not possible, but there should be a reasonable period of time between informing the young person that the interview is going to take place and the interview actually taking place.

It should be explained to the young person what the purpose of the age assessment process is, how that will be undertaken and your role as a social worker and how that differs from other professionals who the young person may be in contact with (for example, an officer of Border Force, a solicitor).

The Greater Manchester Immigration Aid Unit (GMIAU) produces a guide for young people who are being age assessed: 'A guide to the age assessment process':
<https://gmiau.org/speaking-out/children/age-assessments/>

Once the first interview has taken place further dates should also be booked in advance, so the young person knows when the next interview is coming up. Wherever possible, the views of the young person should be taken into account on the frequency and duration of the interviews - as some young people find a lengthy assessment over many weeks difficult to manage.

Giving adequate notice prior to the interview also allows an opportunity for the young person to be consulted about their specific needs, for example, the specific language skills needed by the interpreter.

11. The role of the appropriate adult¹⁵

The role of the appropriate adult is to support the young person. This might involve intervening if the young person is getting tired or upset, ensuring appropriate rest breaks and possibly taking notes of the interview for the young person.

The appropriate adult should be chosen by the young person, although it is recognised that this is not always possible. The appropriate adult should be independent of the local authority. Trained appropriate adults are available through agencies to facilitate support for the young person.

(The term 'appropriate adult' is also used in other legislation for example, the Police and Criminal Evidence Act 1984, and the Criminal Justice (Scotland) Act 2016, but here the function of the 'appropriate adult' is slightly different).

12. Gender issues

Careful consideration needs to be given to the gender of the social workers and interpreter undertaking the interview. An age assessment interview may involve discussion of puberty, relationships, sexual harassment, sexual assault or rape. Cultural and religious expectations may also shape who the young person is willing to be interviewed by. Females may prefer to be interviewed by female social workers. Males may prefer to be interviewed by male social workers. If possible, young people should be consulted about whether they have any specific preferences.

13. Getting the setting right

Choosing the best available setting for the interview is important for ensuring the best possible interview. The interview room should allow confidentiality, space, provide a range of seating options, be free of outside noise, have access to refreshments, toilet facilities and access to another room (should the young person need a breather). The room should be free of signs that could be interpreted as coercive, for example, bars or grids at the window. Not all rooms available

will meet all these criteria, but these criteria do mean that certain settings, for example, a cell in a police station, are wholly unsuitable for undertaking age assessment interviews.

14. Undertaking the Age Assessment Interviews

Two social workers are required to undertake age assessment interviews. At least one of these should be 'experienced' in age assessments and both should have received recent up-to-date training.

One option is that one social worker leads the interview by asking the questions and the second social worker takes notes while actively listening. Another option is that both social workers take notes. The challenge with this is that it is difficult to observe changes in expression or body posture if the lead social worker is also trying to take notes. A third option is that one social worker takes full notes while the interviewing social worker occasionally jots down something which they regard as particularly significant. Notes should include the questions asked. As soon as possible after the interview social workers should check each other's notes to ensure accuracy.

Some social workers are now audio recording age assessment interviews. This can help ensure the young person is safeguarded and avoids issues around challenges of interpretation and charges of 'I never said that'. Audio recordings need the consent of all present in the room.

However, unless the audio recording is fully transcribed (which is costly and time consuming) judgement will still need to be exercised in what content makes it into the written notes of the interview. There are also issues with safely and securely retaining audio recordings.

'Open ended' questions offer a good starting point once introductions have been completed. Some suggested questions might include:

- *Tell me about your family.*
- *Tell me about your time at school.*

- *Tell me about your journey to the UK. Were you unwell on the journey? Were you hurt, or injured in any way?*
- *How long did your journey take? When did you leave?*

Questions such as this allow both an assessment of the young person's needs (for example, information on their prior schooling may help planning for access to school or college in the UK, information on health may result in a referral to a doctor, or other specialist health professional) but also allows more focussed age assessment questions subsequently, for example:

I think you've told my colleagues that you are 15. You've also told us you've been travelling for two years - I wonder how that fits with what you told us about leaving school at 14?

The Merton judgement adopts the phrase of a 'circular' approach¹⁶; not simply going through the proforma in a strict sequence but seeking to establish a consistent narrative by regular checking back – a process that also makes it less obvious that this is also about chronological age.

An active professional curiosity is required to establish how, and to what extent, the answers to the interview questions, and observations, contribute to a consistent narrative of the age given by the young person. Active and purposeful dialogue between the two social workers after the interview is an effective way of testing perceptions, for example, 'When he said.... I wondered how that fitted with....'

It is worth remembering that:

- The onus is not on the young person to prove their age to the social workers¹⁷. The onus is on the social workers to undertake an age assessment¹⁸.
- The role of the social worker is not to establish whether the young person is an asylum-seeker (Why did you leave your home country?) but to assess need and age.

15. Factors in Age Assessment

Physical appearance (height, physical development, complexion etc) and demeanour (how a person presents themselves) are of course key in age assessment. It is, after all, how we judge people's ages in every-day life. However, oversimplistic interpretations need to be avoided. For example, male facial hair will vary between ethnicities, with some males under 18 being able to have a full beard while males from other ethnicities will have minimal facial hair at 30. A judgement on the basis of height is simplistic if the majority of people in that ethnic group are tall. Physical development is partly linked to genes but is also linked to nutrition, since nutrition will affect physical development.

Consequently, reliance on physical appearance alone is not sufficient for an age assessment and is considered unreliable in case law¹⁹ except in a very obvious case for example, the child is pre-adolescent.

There will also be the issue of communication. 'Sounding adult' may not necessarily mean that a person is an adult – they may just be more articulate and/or intelligent than their peers, or they may have had to develop this skill to respond to challenging or distressing situations in their home country or on their journey to the UK.

Teenagers may also vary in their presentation on a day-to-day basis. In everyday life we might say 'she's very grown up' or, we might say in frustration to a teenager, 'stop behaving like a child'.

Young asylum seekers may have had to put on an 'adult face' to survive the long journey from their country of origin and on finding a safe place may increasingly revert to being a child.

A legacy of trauma may mean that it takes time before a young person reverts to behaving in line with their chronological age. Trauma will also affect memory and how events are presented. All of us may not be able to recall events as accurately as we would like, particularly the sequencing of events, and incidents of severe trauma may

be 'forgotten' or remembered incorrectly.

All of this underscores that there may be a need for a number of interviews.

16. Wider considerations in age assessment

A helpful tool in the process of age assessment is the distinction between what Kohli calls 'thick stories' and 'thin stories'²⁰. An illustration is useful here. In applying for a job, we may say what we think the interviewer wants to hear. We play up what we think is required for the role and we play down information that we think might stop us getting the job. Unless we present an outright falsehood (for example, claiming a qualification we don't have) this presentation of our 'career self' is seen as both normal and perfectly legitimate. In the asylum process the equivalent of this is what might be called 'thin stories': the version of events that the young person thinks the interviewer (the official from Border Force, the social worker) wants to hear. This is going to be particularly the case if a young person's previous experience of authority figures is that they may cause harm.

The idea of 'thin stories' is also helpful in thinking about the use of 'scripts', an almost word for word version of events delivered by apparently unconnected young people at different times in different parts of the country. Scripts can of course be true - but need careful corroboration.

A 'thick story' is a fuller version of the narrative, to understand whether the fuller narrative supports the presenting story.

A further consideration is that because of the emphasis on documentation in the 'global north' the change of status from 'child' to 'adult' in the UK is binary: legally, prior to 18 the individual is a child, at 18 they are an adult. Various chronological age divides also affect a whole series of activities, for example, criminal responsibility, when it is legal for a young person to buy vapes, to buy cigarettes, to buy alcohol, to drive, to vote, to have sex...These boundaries are, of course, regularly tested, but the principle that certain rights, responsibilities and behaviours are /

are not acceptable due to the child / adult chronological age divide is well established.

Other societies may have different boundaries between childhood and adulthood: for example, a girl may not be a woman until she has a child (whatever age this may occur), or a boy may not be a man until he has undertaken a certain task or taken part in a certain ceremony (whatever age this may occur). So, in claiming to be a child, an individual may well be presenting what is true for their culture. Other societies may also have different norms on measuring the progress of time. For example, the calendar being used can vary between countries (for example, at the time of writing in the UK and many other countries it is 2023, in Ethiopia it is 2015²¹) or how ages are calculated²². Interpreters can be very helpful in confirming, or not, the conversion of dates from one calendar to another.

17. Other sources of information

Social workers undertaking age assessment will want to use other sources of information

that might be available. For example, the social worker might ask the foster carer if the behaviour of the young person is consistent with the age that the young person has given. If the young person is in school, the social worker might ask the teacher if the behaviour of the young person is consistent with the age group of the year.

Sourcing this kind of information is not to 'catch out' the individual, it is part of the process of assessing age with a view to understanding the needs of the young person.

Sometimes this proactive search for other sources of information is described as 'multi-disciplinary age assessment'. This is a misleading term. It implies that a range of professionals come together to jointly decide the age of a young person. The reality is that while a social worker should take into account the information and views of other professionals the responsibility for reaching a judgement on age belongs solely to the social worker.



18. The role of social media in undertaking age assessments

The ethics and value of information gleaned from social media has been a subject of debate in social work for some time. The issue is both ethically and legally contentious and social workers should think carefully about *why* they need to view a social media account and what value it might add.

There are also important practical considerations for a social worker in viewing the social media account of a child. While circumstances differ between local authorities, social workers will sometimes use their private accounts to view the accounts of some service users for legitimate purposes. Viewing the accounts of a child, can create significant problems for the social worker if there are subsequent allegations of inappropriate behaviour from that child. Social workers should be explicit with their line managers that they are proposing to view the social media account of an individual and why, get agreement and record this on the case notes.

For those in management, social workers should not be assumed to have a relevant social media account.

For those social workers who have a relevant social media account, who feel able to use their personal account and have management approval, this guide takes a pragmatic approach. If the privacy settings are 'off' the information is in the public domain and the social worker can view the content. An individual should be told that their account has been viewed and why.

The account should be viewed only once. This is to avoid accusations of 'fishing' or surveillance.

Careful thought also needs to be given as to how information sourced from social media is presented. For example, there will need to be a screenshot and if the language used is not English, a translation will need to be provided.

Some legal advocates access their client's accounts under their duty of legal candour and may be prepared to share useful information with social workers.

If the privacy settings are 'on' the social worker cannot view the content. Some social media accounts (for example, Whatsapp) are of course not accessible except by invite.

This guide does not support asking an individual for access to their locked accounts, however, if an individual offers access to corroborate some information that opportunity should be taken.

However, a key consideration is that material on social media may be inaccurate, selective, or untrue. Over-reliance on any one consideration (for example, physical appearance, demeanour) is problematic in an age assessment and an over-reliance on material from social media is likely to be particularly problematic.

19. How long should an age assessment take?

Once a young person is accommodated by children's social work services, has recovered from their journey and once sufficient notice has been given (see section 10) the process of age assessment should start as soon as is practicably possible. As has been stated earlier age assessment interviews are stressful for the young person so the process should take not normally take longer than 28 days and certainly no longer than three months.

Age assessment is unlikely to be a 'one-off' event. Individuals may vary in their presentation depending on time and place. While the conduct of an age assessment cannot be an over-extended process, the more direct interaction with a young person the better, giving a richer sense of a range of factors including possible chronological age. A visit to a young person in placement may not be an 'age assessment interview' but it can contribute vital contextual information to support, or question, material presented in the interview.

More prosaically, an age assessment conducted over a range of interviews and other encounters, provides a more compelling evidence base that the assessment undertaken by the social worker is more likely to be correct because it has been undertaken over time and with diligence.

Reaching a Decision

20. Weighing the evidence

Once the evidence has been gathered (the interview material plus other sources of information and observation) the social workers will want to consider the extent to which the available information is consistent and complementary and, whether, and to what extent, it is contradictory. If elements are contradictory, careful thought will need to be given to which elements of the evidence will be given more weight than others and why. This process of 'weighing the evidence' is key: on the one hand we have ... and on the other hand we have...Key in the age assessment write up is separating out the evidence from the interpretation of that evidence (separating out facts from opinion) and then moving from that interpretation to a conclusion.

21. 'Minded to'

Once the social workers have reached an initial conclusion on the young person's age both social workers should meet again with the young person for a 'minded to' meeting. The appropriate adult should also be present at this meeting.

This is where the social worker explains the chronological age they are 'minded to' assess the young person as being. The purpose of this meeting is to:

- Set out the interim conclusion of the age assessment to the young person;
- Where an adverse conclusion has been reached (that is the young person is not a child) the young person should be given the opportunity to respond to all of the points that have led to that conclusion;
- Check whether any information has been misunderstood or misinterpreted;
- Check that no relevant information has been missed;
- Establish whether there is anything else of significance which the young person wants to say.

Careful consideration should be given to what the young person says and if any new information comes to light the age assessment should be adjusted accordingly.

The 'minded to' meeting follows a basic practical principle of checking information and demonstrating an openness to any new information. However, it is also of crucial legal importance since judicial review claims on age assessment have been won simply because the social worker failed to conduct a 'minded to' meeting.

22. The decision meeting

Once the 'minded to' meeting has concluded, and once any additional information has been considered, the social workers can move to the decision meeting where the young person is formally informed of the final decision on the age assessment.

23. 'Initial assessments' and 'full assessments'

An initial assessment (sometimes known as a 'short form assessment') is an immediate assessment of age, for example, a young asylum seeker who has been picked up by the police in a lorry park and claims to be a child. If possible, it is best to be accompanied by another social work colleague. The first step is to establish whether there is any paperwork that verifies age. If the individual is believed to be a child, they will need to be accommodated by the local authority and, if there is any doubt about the age of the child, a full age assessment undertaken as soon as possible.

The Merton judgement allowed for situations where it was 'very obvious' that the person was not a child²³. Various factors can undermine the claim that adulthood is 'very obvious' - this includes the individual being thought to be within the 16-20 age bracket, in which, there is usually room for two valid opinions, and therefore the need for an age assessment²⁴.

If the person is deemed to be an adult, the social worker(s) should be absolutely clear why they are making this decision and be prepared to defend this at tribunal if necessary. In the absence of a full age assessment, it can be extremely difficult, if not impossible, to defend this - which can lead to the severest criticism of both the social worker and the local authority.

24. Writing up an age assessment

A good age assessment takes into account a range of sources of evidence and should not solely rely on one source of evidence. The initial write-up of an age assessment can provide a useful 'stock take' of whether a range of sources of evidence have been taken into account.

The final age assessment is only as good as the write up. An age assessment can be outstandingly good, but if that process, content and consideration is not reflected in the write up it literally cannot be seen by legal advocates, Border Force officials and tribunal judges.

Local authorities often provide templates for age assessment write ups. This guide advocates that while using the template provided, the age assessment write-up could usefully cover:

- The steps you have taken to support the young person prior to, during and after the age assessment interviews, including taking their views into account wherever possible.
- The steps you have taken to ensure the best possible preparations for the interviews.
- A chronology of interactions with the young person (for example, discussions, visits, interviews) including the 'minded to' meeting.
- Setting out the factual evidence (observations, what was said in the interview, the perspectives of other professionals) separately from your interpretations and considerations of this evidence, what weight you gave to different sources of evidence and your consequent final decision.



Next Steps

25. What happens next?

If the claimed age is accepted the child can be recorded with a specific date of birth based on the child's reported day and month of birth if known, or 1 January if not, and a year of birth to match their claimed age.

Where the local authority is sure that a person is a child without the need for an age assessment or where, having conducted an age assessment, a local authority is satisfied on the balance of probabilities that the person is a child, the local authority must inform the Home Secretary of its decision and provide her/him with such evidence if requested, as s/he reasonably requires to consider the local authorities decision²⁵.

If the Home Secretary has reason to doubt the local authority's decision, she may refer the child to a designated person for re-assessment. On re-assessment by a designated person, the Home Secretary, in the exercise of her immigration functions is bound at least by the new age assessment, but the local authority is not bound by the designated person's re-assessment in the exercise of its functions under the relevant children's legislation.

Consequently, the Home Secretary will be bound by the local authority's decision that an age disputed person is a child unless or until she causes it to be re-assessed by a designated person. Thus, a local authority age assessment, conducted by a social worker, will be hugely consequential in the determination of whether an age-disputed person is, or may be exempt, from the duty on the part of the Home Secretary to make arrangements for the removal of that person from the UK under the Illegal Migration Act 2023.

26. Individuals who are age assessed as being an adult

Part of undertaking the age assessment task is accepting that some of the individuals who state they are children may well be age assessed as adults.

It is worth remembering that such a person may still have genuine protection needs and their claim to 'child status' not being upheld

does not negate that. Whether they are an asylum seeker or not, they may be vulnerable individuals in their own right - and social workers owe them a duty of care.

Social workers make difficult decisions in other areas of practice: for example, they may be required to remove a child from its parents, or they may be required to 'section' someone to a locked psychiatric ward. The process of age assessing someone as an adult is one of those intensely difficult professional decisions. The difficulty of such a decision is compounded by the reality that such a person may be deported. All of this reinforces the need for social workers to join wider campaigns to ensure that the systems they work within are fair and just.

Some social workers may avoid reaching such difficult decisions for a range of reasons: they may lack confidence in their conclusions, they may lack training, they may over-identify with the person in front of them, they may be overwhelmed by the circumstances described to them or they may fear a robust legal challenge. All of this reinforces the need for clear guidance, a purposeful professional dialogue with the other social worker undertaking the age assessment and regular reflective supervision with their line manager.

However, as professionals, social workers are required to consider the evidence before them and act accordingly. Social workers who assess the evidence and deliberately come to the opposite conclusion are not only undermining their own professional status - they are undermining the decisions of their colleagues too.

27. Once individuals are assessed to be adults

If at the decision meeting a young person is finally assessed as being an adult, they will need careful support. An additional advantage of undertaking the 'minded to' meeting is that this decision - and the consequent implications - do not come out of the blue.

If a young person is assessed to be an adult the local authority may need to continue to provide accommodation for a short period

while alternative accommodation is arranged. A referral should be made to Migrant Help (migranthehelpuk.org) to facilitate a smooth handover. If the social worker has identified any specific needs, they should first ask permission of the person assessed to be an adult and then inform the appropriate receiving agency. Risk assessments should be up to date. With the permission of the young adult relevant support staff should be informed so that the process of handover minimises any trauma.

28. Judicial review and/or appeal to an age assessment

An increasing number of age assessments are being challenged. Presently, this is by way of a claim for judicial review in the High Court which may lead to a fact-finding decision in the Upper Tribunal. Given the stakes this is perhaps not surprising.

Dealing with legal challenges is stressful and time consuming for the social worker, and costly for the local authority.

The best defence against a challenge to an age assessment is for the social worker to demonstrate the steps that have been taken to gather the necessary evidence, to document that evidence, and to weigh that evidence in setting out the conclusions. But as was stated in section 24 an assessment is only as good as the write up.

At the time of writing common weaknesses include:

- Placing too much emphasis on physical appearance or 'demeanour'.
- Failing to undertake the 'minded to' meeting; and,
- Undertaking an 'initial assessment' when a full Merton compliant assessment is needed.

The Illegal Migration Act 2023 when it is brought into force aims to limit the scope of the court or tribunal to substitute its own view of disputed age on the facts. Before then, and until the outcome of the Rwanda litigation is known, the view of the Court of Appeal²⁶, is that when a local authority age assessment is disputed, it is essential for the court or tribunal to give its assessment on the facts.

29. Local Authorities and the NAAB

The National Age Assessment Board (NAAB) was established through the Nationality and Borders Act 2022. The NAAB is part of the Home Office and employs social workers to undertake age assessments. The long-term plan of the Home Office is that all age assessments are transferred from local authorities to the NAAB. As of June 2023, the NAAB has employed just 16 social workers²⁷ so it seems that some time will elapse before the NAAB will be able to provide a truly UK wide service.

BASW has taken the position of dissuading social workers from taking up employment with the NAAB. The UK has a series of checks and balances in place to help protect the needs of the most vulnerable. One key check and balance is that age assessments are undertaken in an agency separate from immigration enforcement. Local authorities are not charged with the task of immigration policy and enforcement and therefore age assessments are less likely to be influenced by political concerns. In contrast, the NAAB is part of the Home Office, which is responsible for immigration enforcement, and is ultimately accountable to the Home Secretary. BASW's concern is that political priorities will intrude on professional decision making. BASW's concern is therefore not about the practice of individual social workers within the NAAB but about the organisation they work within undermining their professional objectivity.

A further concern is that placing age assessment with the Home Office implies that age assessment is primarily around immigration control rather than meeting the needs of the child under the Children Act 1989 and related legislation. Further, a practical outworking of this is that effective age assessment draws on information provided by other local professionals such as foster carers and teachers (see section 17 'Other sources of information') and while not impossible, this becomes much harder if the social worker is working for a UK wide agency rather than a local authority.

The full BASW statement on the NAAB can be read [here](#).

30. 'Scientific methods'

The principle of 'scientific methods' of age assessment was introduced in the 2022 Nationality and Borders Act. Subsequent work undertaken by an independent committee²⁸ advising the Home Office identified two techniques: skeletal scan (focusing on the wrist) and dental examination. Both techniques are based on the concept that chronological age can be determined by certain aspects of physiological development. However, the committee also identified that use of the techniques could only provide an estimated age range of between three and five years – not much use if the young person being age assessed is claiming to be 17.

Bone scans and dental examinations involve what are normally thought of as 'medical intervention' by health practitioners (for example, radiographers, dentists). There is a long-standing principle of not undertaking medical interventions unless there is medical need. For this reason, many professional health bodies are opposed to delivering the techniques of 'scientific assessment'²⁹.

BASW's view is that social work led Merton compliant age assessments should remain the standard. The full BASW statement on scientific age assessments can be read [here](#).

At the time of writing (September 2023) the Illegal Migration Act has just become law, although many of its detailed provisions have yet to be brought into force. They await the outcome of the Rwanda appeal which will be heard by the Supreme Court from October 2023. Section 58 gives the Home Office future powers to deem individuals who refuse to undergo 'scientific assessments' as adults. This would mean that a sixteen-year-old who refused to undergo a scan and/or a dental examination could be deemed an adult and then deported to a 'safe third country'.

It seems possible that providing the facilities to undertake 'scientific assessments', and then scaling them up to deal with the numbers of young people involved will take time. This is both because of likely resistance by many professional health care bodies to undertaking this work and the lack of capacity within the system. For example,

there is UK-wide shortage of MRI scanners.

Further, while the independent scientific committee has made a recommendation about the interaction between Merton compliant age assessments and 'scientific methods' and how these should interact the Home Office has yet to state whether it accepts these recommendations.

As the situation develops updates will be provided in the BASW bulletin which will be available to BASW members.

31. Working with solicitors and legal advisors

Only solicitors and accredited immigration advisors (accredited to Level 3 of the Office of Immigration Services (OISC)) can provide advice and representation on immigration and asylum issues. This is not only a legal reality, but also makes practical sense given that immigration and asylum law is both complex and frequently changing. An age assessment which is professionally undertaken, well evidenced and clearly written up is a powerful tool for a legal advocate to ensure the child receives their rights. Conversely, a professionally completed assessment provides a robust defence if an age assessment is challenged through a tribunal. Social workers should ensure that:

- The young people they work with have a legal advocate and that the legal advocate is appropriately qualified.
- On the first visit to the legal advocate the young person should be accompanied both to ensure that they are able to attend - but also to support them. The accompanying person may be the social worker, the foster carer or another related professional. Legal advice is confidential so the accompanying person may well be asked to sit outside during the actual consultation or to come back at an agreed time.
- If the child is young, or the young person particularly vulnerable, they will need accompanying to the legal advocate on each visit.

Facilitating access to a legal advisor is key to the child's human rights being met under immigration and asylum law.

32. Smuggling and Trafficking

People smuggling involves the transportation of individuals and groups of individuals in exchange for payment in contravention of international standards. For example, 'small boat' crossings of the Channel involving overcrowded, unseaworthy vessels with no navigation systems and no adequate safety systems to cross busy shipping lanes. People can, and do die, of drowning and exposure³⁰. With smuggling the 'contract' (money, or other demand, in exchange for transportation) between the smuggler and the person being smuggled ends once the journey is complete.

With trafficking there is an on-going connection between the trafficker and the person trafficked that involves the person being trafficked being moved for the purposes of exploitation of the trafficker. This may involve financial gain, sexual gain or labour gain (for example, working as cannabis grower) or a combination of these.

Both adults and children can be smuggled and/or trafficked.

A selection of useful questions to ask a young person who you may suspect has been trafficked include:

- Do you owe anyone any money?
- Were you expecting to meet anyone here?
- Have you been given a phone?
- Did you have a phone number to call?
- What was your plan once you got here?
- Has anyone taken your passport from you?

If it is suspected that a young person has been trafficked a referral must be made to the National Referral Mechanism (NRM). If the person is an adult the NRM is a gateway to a range of services. If a person is found to be a victim of trafficking this may be beneficial to their asylum claim.

If the young person is a victim of trafficking the first 48 hours will be crucial in ensuring the safety of the young person. The social worker should refer to their own internal policies and seek immediate advice from their line manager.

APPENDIX 1

REFUGEES AND ASYLUM SEEKERS: THE CONTEXT

War, as well as political and social oppression, are driving a refugee crisis across the world. Despite the message put out in some sources of the media many countries in Europe accept more refugees than the UK³¹.

While there is variation from year to year, most of those who are accepted as refugees are from countries which are commonly recognised as suffering from war, and/or political and social oppression³².

Asylum seekers will come to the UK for a range of reasons – this might include existing connections with their wider family or community or because they already have some knowledge of the English language.

It is also the case that all of us want better lives for ourselves and for our families. Sometimes this involves, or requires, moving between countries. There is already a significant volume of officially sanctioned movement of people between countries: for example, many people come to the UK on work or student visas.

However, being a victim of famine or extreme poverty by itself does not actually qualify an individual to claim asylum. The definition of a refugee is someone who: *'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country'*³³.

Sometimes the term 'economic migrant' is used to describe people who are coming to a country simply to find work and is also sometimes applied to some of those who are claiming asylum. However, the label 'economic migrant' is unhelpful since it can lump together those moving countries within formal immigration systems for a better job, those moving countries in search of a better life and those fleeing famine or extreme poverty in their home country³⁴. While there are legal routes into the UK for some migrants many of these are closed to certain groups - so people may have no option but to go through other routes such as the asylum system.

The number of people coming on small boats to the UK has increased - driven among other things by the fact that other routes (for example, via stowing away on a truck) have increasingly been blocked off. Crossing busy shipping lanes, in overcrowded unseaworthy boats is extremely dangerous with a risk of death by drowning or exposure³⁵.

Certain local authorities are the most common intake points for those claiming asylum: Hillingdon (because it is the location of Heathrow airport) and Kent, because Kent is located at the narrowest point of the English Channel.

Just under 5,250 unaccompanied children claimed asylum in 2022³⁶.

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- ² ...the child's welfare shall be the court's paramount consideration.' The Children Act 1989 Section 1 (1).
- ³ Section 49 of the Nationality and Borders Act 2022 defines an age disputed person to mean a person who requires leave to enter or remain (whether or not such leave has been given) in the UK in relation to whom a local authority has insufficient evidence to be sure of their age. By section 50 of the 2022 Act an age assessment must be conducted where a local authority needs to know the age of an age disputed person for the purposes of deciding whether or not to exercise any of its functions under relevant children's legislation in relation to that person including under Part 3 of the Children Act 1989.
- ⁴ The Children Act 1989, the Children (Scotland) Act 1995, the Social Services and Wellbeing (Wales) Act 2014, and the Children (Northern Ireland) Order 1995.
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- ⁹ In the case R (BF (Eritrea)) v SSHD [2021] UKSC 38, the Supreme Court held that there was no requirement in law for all person to be referred to a local authority unless they appeared to be under 25. Under the 2022 Nationality and Borders Act the SSHD may appoint a designated person to conduct an age assessment for immigration purposes prior to the completion by a local authority of an age assessment for Children Act purposes. It follows that there is no requirement for the SSHD to refer age-disputed persons for local authority age assessment unless she believes they may be children.
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- ¹⁴ For example, the 'headline' language of Ethiopia is Amharic, however in Tigray in the north of Ethiopia the language is Tigrayan.
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- ¹⁸ According to Darboe and Camara v Italy, 5797/17 2022, at paragraphs 153 and 154, there is a presumption of minor age which is an inherent element of the protection of the right to respect for private life under Article 8 of a foreign unaccompanied individual declaring to be a minor.
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www.bailii.org/ew/cases/EWHC/Admin/2003/1689.html Accessed 4 August 2023.
- ²⁰ See for example, Kohli R (2007) *Social work with Unaccompanied Asylum-Seeking Children*. London; Palgrave Macmillan.
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- ²⁶ R (SB) v RB Kensington and Chelsea
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<https://migrationobservatory.ox.ac.uk/resources/briefings/migration-to-the-uk-asylum/>
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Note

This statement supersedes previous BASW statements on age assessment.

All photographs posed by models.

How this Guide was written

A wide-ranging review of literature was undertaken including peer-reviewed academic material, statistics, case law, 'grey' literature and policy documents.

An invitation was then extended to BASW members with relevant experience to contribute to the production of age assessment guidance via a working party.

The literature reviewed formed the basis of a succession of drafts. Each successive draft was then reviewed by members of the UASC Age Assessment Working Party. Changes were made at each stage.

Once that process was complete the draft was reviewed by three individuals who were independent of the working party. The legal aspects of this draft were then reviewed by Becket Bedford a barrister with expertise in refugee and asylum law. We are grateful to him for his legal advice however, any opinions and mistakes remain our own.

The final version of the guide was approved as a BASW practice guide by the Policy, Ethics and Human Rights Committee on 6th September 2023.

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Invitation to contribute to successive editions

It is hoped that you find this guide useful. We value any corrections, feedback or suggestions for material not covered in this guide which will be taken into account in any future editions.

Email us at: policyadmin@basw.co.uk

Disclaimer

All information was up-to-date at time of going to print, however the legal situation and its implementation changes rapidly. However useful a practice guide is, it is no substitute for ongoing legal and policy updates and regular supervision with your line manager.

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