



Home Office

# **National Age Assessment Board: The operation of the National Age Assessment Board and sections 50 and 51 of the Nationality and Borders Act 2022**

Version 1.0

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# About this guidance

This guidance sets out the policy and procedures for the operation of the National Age Assessment Board (NAAB) and on the wider processes required by sections 50 and 51 of the [Nationality and Borders Act 2022](#) (2022 Act).

The NAAB is a decision-making function in the Home Office, which primarily consists of social workers and can conduct age assessments upon referral from a local authority, a Health and Social Care Trust in Northern Ireland or the Home Office, on those subject to immigration control, who do not have sufficient evidence to demonstrate their age, and either:

- there is reasonable doubt about their claims to be children
- they claim to be adults but are suspected to be children
- they are accepted to be children, but are believed to be of a different age than claimed

Specifically, this guidance aims to:

- explain the role of the NAAB and its processes
- help local authority, Health and Social Care Trust and Home Office staff, including the NAAB, to understand what actions need to be taken in respect of young people whose claimed ages are doubted, including those required under sections 50 and 51 of the 2022 Act
- help the relevant operational staff and agencies to work together to provide an age assessment process which is efficient, effective and enables them to comply with their statutory duties

This guidance covers the actions local authorities must take to comply with sections 50 and 51, it does not cover the manner in which age assessments must be conducted by them.

## Intended audience

This guidance is primarily intended for staff members of the NAAB, local authority children's services, children's services staff in Northern Ireland Health and Social Care Trusts and Home Office operational staff dealing with individuals who may be referred to the NAAB for age assessment. It may also be of interest or use to others who are involved in the age assessment process.

In Northern Ireland, children's social care functions are delivered by Health and Social Care Trusts' Children's Social Care Services. The terms 'local authority' or 'local authorities' within this guidance document refer to local authorities in England, Wales and Scotland and also Health and Social Care Trust in Northern Ireland, unless stated otherwise.

## Contacts

If you have any questions about the guidance and your line manager or senior social worker or senior caseworker cannot help you or you think that the guidance has factual errors, then email the National Age Assessment Board.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **31 March 2023**

## Changes from last version of this guidance

This is the first version of the guidance

### Related content

[Contents](#)

# Introduction

The age of an individual arriving in the United Kingdom (UK) who is subject to immigration control is normally established from the documents with which they have travelled. However, many children and young people will not be able to provide a document as evidence of their age and some may not even know their own chronological age. This does not necessarily mean that their claimed age will not be accepted but does mean that a decision on whether to accept their claimed age needs to be made. This is to ensure the young person is treated age-appropriately, that they receive the necessary services and support, and is also important for safeguarding children. For example, if a child is wrongly treated as an adult, they will be deprived of the relevant children's services owed to them, their asylum claim will be considered under adult procedures and, in rare circumstances, could be detained alongside adults, potentially breaching the strict legal limits on the detention of children. Conversely, if an adult is incorrectly treated as a child, this could result in them mixing freely with other children, such as within a foster family or at school.

In many cases there is insufficient reason to doubt an individual's claimed age, but in some cases, there may be reasonable doubt that they are the age they claim (or are claimed) to be and it is considered necessary for an assessment of their age to be undertaken. This could be when there are doubts over an individual's claim to be a child, or when their claim to be a child is accepted but they are believed to be a child of a different age than claimed.

This may require a lawful, careful, holistic social worker assessment of their age, traditionally known as a 'Merton compliant' age assessment, which must adhere to procedures set out by the courts. Where required, these assessments have historically been undertaken by local authorities to determine whether the individual is entitled to support under relevant children's services legislation and are assigned significant weight by the Home Office when determining whether they should be treated as a child for immigration purposes. It should be noted however that in the absence of valid documentary evidence of age, there is no single age assessment technique or combination of techniques which can determine the precise chronological age of the child – this includes Merton compliant age assessments.

The circumstances in which age is first disputed can vary significantly and this can influence which authority first disputes an individual's age. For example, a young person can be encountered in the UK in a variety of ways, such as by Border Force at ports of entry, during Immigration Enforcement operations as clandestine illegal entrants or by attending an Asylum Intake Unit, such as in Croydon or Kent. An individual could have their age disputed by the Home Office, usually at the point of claim for asylum, or by local authority children's services departments after they have been approached for support under relevant children's services. Information about what stage referrals can be made to the NAAB is provided later in this guidance, within the section: [When a local authority must make a decision on age](#).

Although most age disputed persons are unaccompanied, some are accompanied – this would be where they are being cared for either by parents or by someone who in law or custom has responsibility to do so. Those who are unaccompanied are likely

to approach or be referred to their local authority children's services department for support as a child in need and, where there is doubt over whether they are an adult or a child, they will be provisionally treated as a child by the local authority until a decision on their age is made. Accompanied children are less likely to be provided with support by the local authority and, as a consequence, the local authority is less likely to take a role in the age assessment process. Regardless of whether the young person is accompanied or unaccompanied, while there remains doubt over whether they are an adult or a child, they will be provisionally treated as child for immigration purposes until a decision on their age is made.

Whether there is doubt over an individual's age is not unchangeable. The young person's journey to the UK can be long and traumatic with limited opportunities to manage their basic physical health and self-care needs. With good care and some recovery time, a young person's physical appearance and demeanour can change within a relatively short period of time. As a consequence, it is not uncommon for a young person's claimed age to be doubted immediately after their arrival in the UK, but shortly after, for there to be no good reasons to doubt their age. There could also be cases where there was not reasonable doubt that the individual is the age they claim (or are claimed) to be immediately after arrival, but then to have reasonable doubt at a later date.

## The National Age Assessment Board

The [Nationality and Borders Act 2022](#) ('2022 Act') introduced a number of measures to strengthen and improve processes for assessing the age of those who are subject to immigration control and in relation to whom a local authority or the Secretary of State, has insufficient evidence to be sure of their age. Such an individual is referred to as either an age-disputed person or young person within this guidance document.

The age assessment measures within the 2022 Act include the establishment of a National Age Assessment Board (NAAB). The principal role of the NAAB, established through Sections 50 and 51 of the Act, is to conduct age assessments upon referral from a local authority in England, Wales, Scotland or Northern Ireland, in cases where either:

- the local authority needs to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the individual, and where they have reasonable doubt that the individual is the age they claim (or are claimed) to be
- the Home Office notifies a local authority in writing that it has reasonable doubt that the age-disputed person, in relation to whom the local authority has exercised or may exercise functions under relevant children's legislation, is the age that they claim (or are claimed) to be

While local authorities may refer young people to the NAAB in these circumstances, local authorities retain the power to alternatively conduct their own assessments for the purposes of deciding whether or how to exercise any of their functions under relevant children's legislation, if they prefer to do so or the NAAB is unable to accept the referral. There are also limited circumstances in which the NAAB can conduct



age assessments on young people, upon referral from the Home Office, for the purposes of deciding whether or how the Home Office should exercise any immigration functions in relation to them, where the Home Office is not satisfied that they are the age they claim to be. Further guidance on when an age assessment should be conducted and by whom, including the circumstances in which the Home Office can make a referral to the NAAB, can be found in [Circumstances requiring consideration of age](#).

The NAAB's age assessors are qualified social workers and although located within the Resettlement, Asylum Support & Integration (RASI) directorate in the Home Office, its assessments and members of staff are distinct from the Home Office's immigration decision-making functions – for example, this will be partly maintained through limitations on the exchange of information between the NAAB and other parts of the Home Office (refer to [Sharing information](#) for further information). The NAAB will conduct careful, holistic social worker led and case-law compliant age assessments. These assessments will:

- be child-friendly and child appropriate, with the well-being of the young person at the forefront
- be comprehensive in nature, with interviews conducted in-person
- balance a range of physical, psychological, developmental, environmental and cultural factors
- take into account additional needs and vulnerabilities of the young person, including being alive to the possibility of trafficking or abuse
- take into account documentary evidence
- draw on the expertise of those who play a role in the young person's life, including, where applicable, social workers, residential staff, foster carers, support workers, teachers, health professionals, psychologists, psychotherapists, psychiatrists, advocates, and guardians

The NAAB, through being dedicated to the task of conducting age assessments and through training and the sharing of expertise, will aim to:

- improve child safeguarding by achieving a consistent approach to the task of age assessment and, as a consequence, endeavour to ensure that young people are treated as their chronological age for the purposes of the exercise of functions under relevant children's legislation and immigration legislation
- reduce pressures on local authority resources arising from their conducting of these, often resource intensive, age assessments and any subsequent legal challenges to these assessments

## General principles

The processes set out within this guidance document must be undertaken by the NAAB in accordance with, and to achieve, the following principles:

- compliance with statutory duties, including, but not limited to the statutory duty under [Section 55 of the Borders, Citizenship and Immigration Act 2009](#) which requires that immigration, asylum, nationality and customs functions are

discharged having regard to the need to safeguard and promote the welfare of children who are in the UK - including that the best interests of the child are a primary consideration at all times

- Merton compliant age assessments will only be conducted if, based on the judgment of a NAAB social worker, there is reasonable doubt that the young person is the age they claim or are claimed to be – age assessments should not be conducted as a matter of routine
- improve safeguarding and fairness through consistent age assessment decisions in line with best practice, which are as accurate as possible in specifying the chronological age
- improve identification of and responses to vulnerabilities and specific needs, regardless of whether the assessment ultimately finds the individuals to be a child or an adult
- providing a sensitive, supportive, and collaborative experience for young people
- provide an efficient and timely process, so to minimise levels of distress, uncertainty and, for those with outstanding applications for leave to remain (including asylum), minimise delays to the consideration of those applications, while ensuring that the length of time taken to conduct the assessment takes into account the individual circumstances and that relevant procedural safeguards and principles are adhered to
- age assessments must be carried out in a safe, child and gender sensitive manner with due respect for the young person's dignity and their Human Rights
- information is collected from, and decisions communicated to, the young person in a way that acknowledges their particular vulnerabilities
- the NAAB must be constantly alert to potential indicators of abuse or neglect or those who may have been trafficked or who are at risk with regard to modern slavery and take appropriate action where this is the case
- that the NAAB social workers deliver their functions in a way that maintains their professional integrity as social workers and ensures their adherence to their statutory social work duties, professional standards (for example those issued by [Social Work England](#)) and ethical responsibilities
- the NAAB social workers are mindful that the child or young person may have been 'coached' on aspects of their account, but this does not necessarily mean they are being untruthful about their age
- take into consideration research in relevant areas, such as the impact of trauma on memory
- take into account the views, experiences and feelings of the young person, and pay attention to any traumatic experiences they have suffered
- comply with the [Human Rights Act 1998](#), Data Protection Legislation, including the UK General Data Protection Regulations (GDPR) as contained in the [Data Protection Act 2018](#)
- while there remains doubt over whether the young person is an adult or a child, they must be given the benefit of the doubt and treated as a child for immigration and social care purposes

## Related content

[Contents](#)

# Relevant legislation

This page tells you about some of the legislation relevant to age assessment.

## Part 4 of the Nationality and Borders Act 2022

Part 4 of the [Nationality and Borders Act 2022](#) (2022 Act) introduced a number of measures relating to the assessment of age of those who are subject to immigration control and in relation to whom a local authority, the Secretary of State (Home Office) or a public authority specified in regulations, has insufficient evidence to be sure of their age. The age assessment measures within the 2022 Act are summarised as follows:

Section 49 defines a number of terms referred to in Part 4 of the 2022 Act, including, for example:

- ‘age-disputed person’ means a person who requires leave to enter or remain in the UK (whether or not such leave has been given), and in relation to whom a local authority or the Home Office, has insufficient evidence of their age
- ‘designated person’ means an official of the Home Office who is designated by the Home Office to conduct age assessments under section 50 or 51, in other words, a NAAB official who carries out age assessments
- ‘relevant children’s legislation’ for the purposes of these provisions means:
  - in relation to a local authority in England, any provision of or made under Part 3, 4 or 5 of the [Children Act 1989](#)
  - in relation to a local authority in Wales or Scotland or a Health and Social Care Trust in Northern Ireland, any statutory provision (including a provision passed or made after the coming into force of Part 4 of the 2020 Act) that confers a ‘corresponding function’ on such an authority
- ‘corresponding function’ is defined as a function that corresponds to a function conferred on a local authority in England by or under Part 3, 4 or 5 of the Children Act 1989

Section 50 confers a power on designated officials of the Home Office (in the form of the National Age Assessment Board – NAAB) to conduct full age assessments on age-disputed persons upon referral from a local authority in England, Wales and Scotland or a Health and Social Care Trust in Northern Ireland – for example:

- section 50(1) provides that local authorities may refer an age-disputed person to a designated person (NAAB) for an age assessment to be conducted
- section 50(2) defines the circumstances in which the actions required under sections 50(3) and 50(4) apply – for example:
  - the first circumstance is where a local authority needs to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children’s legislation
  - the second circumstance is where the Home Office notifies a local authority that it doubts that an age-disputed person, in relation to whom the local

authority has exercised or may exercise functions under relevant children's legislation, is the age that they claim to be

- section 50(3) requires that where section 50(2) applies, a local authority must either:
  - refer the age disputed person to the NAAB to conduct an age assessment
  - conduct an age assessment themselves and inform the Home Office of the results of its assessment
  - if the local authority is satisfied the individual is the age they claim to be and considers that an age assessment is not required, the local authority must notify the Home Office of this in writing
- section 50(4) requires that where a local authority either conducts an assessment themselves or confirms that they are satisfied that the age of an age-disputed person is as claimed, they must, on request from the Home Office, provide the Home Office with such evidence as the Home Office reasonably requires, to allow the Home Office to consider that decision
- section 50(5) requires that, where a local authority refers an age-disputed person to the NAAB for an age assessment, the local authority must provide any assistance that the NAAB reasonably requires for the purposes of conducting that assessment
- section 50(6) stipulates that the standard of proof for an age assessment under this section 50, either conducted by the NAAB or a local authority, is the balance of probabilities
- section 50(7) stipulates that an age assessment conducted by the NAAB under section 50 following a referral from a local authority both:
  - is binding on the Home Office when exercising immigration functions
  - is binding on a local authority that is aware of the age assessment and has exercised or may exercise functions under relevant children's legislation

(But this is subject to section 54(5) (appeals relating to age assessments) and section 56 (new information following age assessment or appeal))

Section 50(7) has been amended pending the coming into force of sections 54 and 56 by the transitional provisions in the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023 (2023 Regulations). This is because section 50(7) cross refers to sections 54 and section 56, which are not yet in force. The effect of the transitional provisions is that section 50(7) is to be read as if:

- the references to section 54 and 56 are omitted
- the NAAB is not prevented from carrying out a further age assessment on an age-disputed person if they become aware of new information in relation to that person's age which is significant new evidence

Section 51 confers a power on designated officials of the Home Office (in the form of the NAAB) to conduct full age assessments on age disputed persons for immigration purposes only in certain circumstances – for example:

- section 51(1) stipulates that the NAAB may conduct an age assessment on an age-disputed person for the purposes of deciding whether or how the Home Office should exercise any immigration functions in relation to that individual
- section 51(2)(a) states that the Home Office may conduct an age assessment on an age-disputed person under section 5(1) in circumstances where section 50(3) and section 50(4) do not apply
- section 51(2)(b) says that even where section 50(3) and section 50(4) do apply, there are 2 circumstances where the NAAB would be permitted to conduct an age assessment on an age-disputed person:
  - firstly, an age assessment may be conducted by the NAAB at any time before a local authority has referred an age disputed person to the NAAB or conducted an age assessment itself
  - secondly, an age assessment can also be conducted if the Home Office has reason to doubt an age assessment conducted by a local authority on an age-disputed person or has reason to doubt a local authority's decision to not conduct an age assessment
- section 51(3) specifies that an age assessment under section 51 is binding on the Home Office when exercising immigration functions, but this is subject to section 54(5) (appeals relating to age assessments) and section 56 (new information following age assessment or appeal)
- section 51(4) stipulates that the standard of proof for an age assessment under this section is the balance of probabilities

Section 51(3) has been amended pending the coming into force of sections 54 and 56 by the transitional provisions in the 2023 Regulations. This is because section 51(3) cross refers to sections 54 and section 56 of the 2022 Act, which are not yet in force. The effect of the transitional provisions is that section 51(3) is to be read as if:

- the references to section 54 and 56 are omitted
- the NAAB is not prevented from carrying out a further age assessment on an age-disputed person if they become aware of new information in relation to that person's age which is significant new evidence

Section 52 confers a power on the Home Office to make regulations specifying the use of scientific methods of age assessment and for a decision-maker to be able to take a negative credibility inference from a refusal to comply with a request to undergo a scientific age assessment, without good reason (this section has only been commenced for the purposes of making such regulations, but no such regulations have yet been made).

Section 53 confers a power on the Home Office to make regulations about the way in which age assessments are conducted under section 50 and 51 (no such regulations have yet been made).

Sections 54 and 55 introduce a right of appeal to the First Tier Tribunal for an age-disputed person who was determined, following an age assessment under Part 4, to be an age different to the age they claimed to be (this section has not yet been commenced).

Section 56 details the process for assessing new evidence that may come to light only after an age assessment has been made, including cases where the individual has been through the appeal process under sections 54 and 55 (this section has not yet been commenced). As explained above, the 2023 Regulations, specifies a transitional framework for the consideration of new information by the NAAB pending the commencement of section 56.

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

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) (2009 Act) introduced a statutory duty on the Home Office to ensure that its immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children who are in the UK. This statutory duty extends to all Home Office staff and those acting on behalf of the Home Office, including the NAAB. It came into force on 2 November 2009 and is how the UK gives effect to the [United Nations Convention on the Rights of the Child](#) (UNCRC) in immigration matters that affect children. The NAAB must ensure that they are familiar with the statutory guidance under section 55 of the 2009 Act, [Every child matters - change for children](#). The guidance sets out the main principles to take into account.

## **Section 51 of the Modern Slavery Act 2015**

[Section 51 of the Modern Slavery Act 2015](#) (in England and Wales) and [section 12 of the Human Trafficking and Exploitation \(Scotland\) Act 2015](#) (in Scotland) stipulates the manner in which age dispute cases must be treated when a public authority is identifying what support to provide or is already providing support under relevant arrangements and they have reasonable grounds to believe that the individual may be a victim of human trafficking. In such cases, if they are not certain of the individual's age but have reasonable grounds to believe that the individual may be under 18, they must assume for the purpose of those arrangements, that the individual is under 18 until an assessment of the person's age is carried out by a local authority or the person's age is otherwise determined. An individual's age would be considered to be otherwise determined if an assessment of the individual's age is carried out by the NAAB.

'Relevant arrangements' means providing assistance and support to individuals who are, or for whom there are reasonable grounds to believe that they may be, victims of human trafficking or modern slavery as set out in statutory guidance issued by the Home Office. For guidance on considering cases which involve modern slavery, refer to the [statutory guidance on Modern Slavery](#).

## Section 21 of Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015

The Independent Guardian Service (IGS) came into operation in Northern Ireland on 1 April 2018 under [The Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) (2015 Act), with provisions determined under the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) \(Independent Guardian\) Regulations \(Northern Ireland\) 2016](#) (2016 Regulations).

The IGS operate within the extant child welfare, child safeguarding and child protection framework in Northern Ireland and make provision to 'assist, represent and support' a child, if that child is the victim of human trafficking, may have been trafficked or is at risk of being trafficked. The same provision applies to a child that arrives in Northern Ireland unaccompanied or separated from care-givers. An Independent Guardian appointed in relation to a child is required to at all times act in the best interests of the child. The duties, responsibilities and powers of Independent Guardians are set out at Section 21(7) (a)-(h) of the 2015 Act and include (where appropriate):

- ascertaining and communicating the views of the child in relation to matters affecting the child
- making representations to, and liaising with, bodies or persons responsible for either:
  - providing care, accommodation, health services, education or translation and interpretation services to or in respect of the child
  - otherwise taking decisions in relation to the child
- assisting the child to obtain legal or other advice, assistance and representation, including (where necessary) the appointment and instructing of legal representatives to act on behalf of the child
- consulting regularly with the child and keeping the child informed of legal and other proceedings affecting the child and any other matters affecting the child
- contributing to a plan to safeguard and promote the future welfare of the child based on an individual assessment of that child's best interests
- providing a link between the child and any body or person who may provide services to the child
- assisting in establishing contact with members of the child's family, where the child so wishes and it is in the child's best interests
- accompanying the child to meetings or on other occasions

Section 21(8) of the 2015 Act stipulates that any individual or body providing services or taking administrative decisions in relation to a child for whom an Independent Guardian has been appointed under this section must recognise, and pay due regard to, the functions of the guardian and must (to the extent otherwise permitted by law) provide the guardian with access to such information relating to the child as will enable the guardian to carry out their functions effectively.

The detail around the specific role of the Independent Guardian in respect of age disputed children and young people in Northern Ireland is set out within the [Working Arrangements for the Welfare and Safeguarding of Unaccompanied and Separated Children and Young People](#). For example, the Independent Guardian should attend age assessment interviews and should be there to support and assist the young person being interviewed and not merely as a passive observer. NAAB social workers intending to undertake an age assessment in respect of a young person should consult with the young person's Independent Guardian and ensure that they can participate in the age assessment process and as an "appropriate adult who is independent of the local authority", attend any interviews necessary.

#### **Related content**

[Contents](#)



# Relevant guidance documents

This guidance document must be read in conjunction with the specific guidance on particular situations. For instance:

- [Every child matters](#) - statutory guidance issued by the Home Office under Section 55 of the [Borders, Citizenship and Immigration Act 2009](#) on the requirement to make arrangements to safeguard and promote the welfare of children
- Assessing age – guidance issued by the Home Office setting out the policy and procedures that must be followed by Home Office officials when an asylum seeker or migrant claims to be a child and their claimed age is doubted by the Home Office or they claim to be an adult but are suspected to be a child
- [Age assessment joint working guidance](#) – guidance issued by ADCS and the Home Office which sets out the agreed arrangements between the Home Office and local authorities, in England, where either disputes the age of an individual seeking asylum who claims to be a child
- Children’s asylum claims – guidance issued by the Home Office tells Home Office staff about how to process and assess asylum claims from children
- [Working together to safeguard children 2018](#) - statutory guidance issued by the UK government on inter-agency working to safeguard and promote the welfare of children in England
- [Co-operating to Safeguard Children and Young People in Northern Ireland](#) – the NAAB can refer to this guidance, which has been issued by the Department of Health Northern Ireland, for information on the overarching policy framework in Northern Ireland for safeguarding children and young people in the statutory, private, independent, community, voluntary and faith sectors
- [Working together to safeguard people: information sharing to safeguard children](#) – the NAAB can refer to this guidance, which has been issued by the Welsh Government, for information about the sharing information to safeguard children in Wales
- [National guidance for child protection in Scotland 2021](#) – the NAAB can refer to this guidance, which has been issued by the Scottish Government, for information about how statutory and non-government agencies in Scotland work together with parents, families and communities to prevent harm and to protect children from abuse and neglect
- [Working Arrangements for the Welfare and Safeguarding of Unaccompanied and Separated Children and Young People and Young People who are Victims or Potential Victims of Human Trafficking and Modern Slavery](#) – the NAAB can refer to this guidance, which was issued by the Health and Social Care Board (HSCB) and the Police Service of Northern Ireland, for information on the arrangements that are in place in Northern Ireland to identify and support child victims and potential victims of these offences (note that the HSCB closed on 31 March 2022 and responsibility for its functions transferred to the Department of Health Northern Ireland)
- [Modern slavery](#) – UK government guidance on considering cases which involve modern slavery

- [UASC National Transfer Protocol](#) - guidance issued by the Home Office on the operation of the National Transfer Scheme (NTS) and the way in which local authorities can transfer unaccompanied children to another local authority in accordance with [section 69 of the Immigration Act 2016](#)
- [Care of unaccompanied migrant children and child victims of modern slavery: Statutory guidance for local authorities](#) – issued by the Department for Education

**Related content**

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# Case law and guidance on undertaking assessments

This section contains information on the manner in which National Age Assessment Board (NAAB) must be conducted.

There is currently no entirely prescribed way in which the NAAB are obliged to carry out age assessments. Section 53 of the [Nationality and Borders Act 2022](#) ('2022 Act') includes a power for the Secretary of State to make regulations stipulating how age assessments under section 50 or 51 of the 2022 Act must be conducted. In the absence of such regulations, the courts have set out guidance and standards which should be applied – some of this case law is listed later in this section.

## Guidance on conducting age assessments

ADCS, the Scottish Government and Welsh Government have published guidance to assist social workers and their managers in undertaking age assessments:

- [Age assessment guidance](#), issued by ADCS and applies to local authorities in England (October 2015)
- [Unaccompanied Asylum Seeking Children Age assessment toolkit](#) issued by the Welsh Government and applies to local authorities in Wales (29 June 2021)
- [Age Assessment Practice - Guidance for Scotland](#), issued by the Scottish Government and applies to local authorities in Scotland (22 March 2018)

In the absence of regulations issued under section 53, it is Home Office policy that the NAAB must take into account the best practice within the guidance (listed above) covering the country within which the young person resides, on the manner in which Merton compliant age assessments should be conducted, when conducting assessments. Specifically, chapters 3 to 6 of the ADCS guidance, section 5 of the Welsh guidance and sections 5, 6 and 7 of the Scottish guidance. Northern Ireland does not have equivalent guidance and, in the absence of such guidance, the NAAB must take into account the best practice within the ADCS Age Assessment Guidance when conducting assessments in Northern Ireland. However, when applying the guidance within these documents, the NAAB must take into account that:

- the guidance may have been drafted before the introduction of the 2022 Act, and written from the perspective of age assessments conducted by local authorities
- the guidance does not take into account case law made known after the guidance documents were published
- references to the availability and viability of scientific methods of age assessment do not take into account developments since the guidance was published – it should be noted that the Home Office is seeking scientific advice around the use of scientific methods for assessing age separately and has the power to specify scientific methods that may be used for this purpose in regulations at a future date

- where any of their contents conflict with part 4 of the 2022 Act or other relevant legislation, recent case law on the standards of a Merton compliant age assessment or this guidance, primacy should be assigned to part 4 of the 2022 Act and other relevant legislation, more recent case law on the standards of a Merton compliant age assessments (if applicable in the relevant jurisdiction) or, in most cases, this guidance

## Case law

Much of the initial guidance was set out in a High Court case involving Merton Council ([B v London Borough of Merton \[2003\] EWHC 1689 \(Admin\)](#)) (commonly known as 'Merton'). Since this case, the courts have further developed their view on what they consider to be a lawful age assessment. Summaries of the cumulative principles of the case law are set out below. While the courts have identified relevant operating principles, they did not establish a checklist which must all be adhered to for all age assessments in order for those assessments to be Merton compliant. What is required is such investigation as is reasonable on the facts of the case. Whilst an assessment that meets every point outlined in the case law is likely to be Merton compliant, this will not be necessary in every case. The assessing social workers must be able to demonstrate that it was reasonable to consider the factors that they did in relation to the specific facts of the case they were considering.

You must note that although these summaries are correct at the time of publishing, new relevant case law may subsequently be made known amending the requirements. This guidance will be regularly updated to take into account relevant new case law, but during the intervening periods, senior social workers and managers within the NAAB will be responsible for promptly communicating this case law to social workers.

## Basic principles before starting the interview

- the purpose of an age assessment is to establish the chronological age of a young person
- the number of social workers: the age assessment should, if practicable, involve 2 social workers (who should be properly trained and experienced) in cases where the age of the young person 'may objectively be borderline, between perhaps 16 and 20', and therefore a more in-depth assessment of their age is necessary
- an interpreter must be provided if this is necessary and, when provided, a careful check should be made to ensure that there is full understanding between the young person and the interpreter
- the interpreter should be skilled in both the language and dialect of the young person and have experience of interpreting in the kind of situation created by the age assessment process
- an individual should be given the opportunity to have an appropriate adult present, this includes informing them of the right to have one and the purpose of having an appropriate adult explained to them
- if the circumstances of the case are such that the individual is being re-assessed (for example, they are undergoing a second age assessment), it is

preferable for those who undertook the first assessment not to take part in the second

- providing the limitations of an assessment found to be unlawful are recognised, this assessment can provide relevant material for assessing social workers to build upon when conducting a subsequent assessment - this will likely mean ensuring that analysis, comments and conclusions of previous assessors are not provided
- if there is a previous age assessment, there is no good reason why future assessors should be made aware of its conclusions before conducting their own assessment, as this could taint or bias their own view
- except in clear cases (where it is obvious that an individual is under or over 18 and there is normally no need for prolonged inquiry), those who are assessing age cannot determine age solely on the basis of the appearance or demeanour of the claimant

## The interview

Those who are assessing age should:

- explain to the claimant the purpose of the interview, the role of the social workers and, if present, the roles of the appropriate adult and interpreter
- try to establish a rapport with the applicant and any questioning, while recognising the possibility of coaching, should be by means of open-ended and not leading questions
- pay attention to the level of tiredness, trauma, and confusion of the claimant and provide appropriate breaks as necessary - if the young person is ill then the interview should be rearranged
- be aware of the customs and practices and any particular difficulties faced by the claimant in their home society
- seek to obtain the general background of the claimant, including their family circumstances and history, educational background, and their activities during the previous few years - ethnic and cultural information may also be important
- take into account that general credibility is not to be determinative of age - it is more likely that a claimant who tells a consistent account of their life which supports their claimed age will be the age they claim to be, but conversely, young people may lie for reasons unrelated to age but related to their claims for protection or the reasons they had to leave their country of origin
- make an assessment of the claimant's credibility and ask questions to test their credibility if there is reason to doubt their statement as to their age
- give the claimant the opportunity to explain any inconsistencies in their account or anything which is likely to result in adverse credibility findings - this is best done as soon as possible, when matters are 'fresh in minds'
- remember that cases vary, and the level of inquiry required in one case may not be necessary in another

## The conclusion

The conclusion:

- there should be no predisposition, divorced from the information and evidence available to the assessing party, to assume that the young person is an adult, or conversely that they are a child
- the decision needs to be based on particular facts concerning the individual whose age is being assessed and is made on the balance of probabilities
- there is no burden of proof imposed on the young person to prove their age
- where, having considered the evidence, the decision maker concludes there is doubt as to whether an individual is over 18 or not, then in those circumstances, the decision-maker should give the young person the benefit of the doubt and conclude that they are under 18
- the view of other public authorities on age is not, in itself, of any evidential weight or value to the local authority who should exercise their own judgment in assessing age for the purposes of their Section 20 duty under the Children Act 1989
- a medical report from a paediatrician is not necessary and local authorities or the NAAB are not required to commission one, but if one is obtained by the local authority or NAAB, while they do not attract greater weight than properly conducted reports from experienced social workers, nor can they be disregarded - they must be considered if they have been submitted
- physical appearance is a notoriously unreliable basis for assessment of chronological age
- demeanour can also be notoriously unreliable and by itself constitutes only somewhat fragile material (demeanour will generally need to be viewed together with other things, including inconsistencies in their account of how the applicant knew their age)
- documents need to be considered as part of the totality of the evidence and weighed accordingly - age assessment should not be determined on the basis of documentary evidence alone
- the finding that little weight can be attached to physical appearance applies even more so to photographs which are not 3-dimensional and the appearance of the subject can be significantly affected by how photographs are lit, the type of the exposure, the quality of the camera and other factors, not least including the clothing an individual wears
- benchmarking by use of photographs proposing to show individuals typical of their ages and gender, presupposes that the distinctive qualities or characteristics of individuals of a certain age and gender are identifiable and, unless such characteristics are identifiable, it is not possible to state, except in an entirely subjective manner, that an individual is a typical 16, 18 or 20-year-old male or female
- the conclusions and reasons should engage with any documents submitted by the claimant
- adequate reasons should be given for a decision that a claimant claiming to be a child is not a child, with the conclusions expressed with sufficient detail to explain all the main adverse points which the fuller document showed had influenced the decision
- the interview should be written up promptly and notes should be accurate and consistent
- the young person must be given a fair and proper opportunity, at a stage when a possible adverse decision is no more than provisional, to deal with important

points adverse to their age case which may weigh against them (for example, it is not sufficient that the interviewing social workers withdraw to consider their decision, and then return to present the young person with their conclusions without first giving the young person the opportunity to deal with the adverse points)

- a person such as a teacher or even a family member, who can point to consistent attitudes, and a number of supporting instances over a considerable period of time, is likely to carry more weight than observations made in the artificial surroundings of an interview

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# Circumstances requiring consideration of age

This section provides guidance on when a decision on age must be made by a local authority and when a referral can be made by a local authority or Home Office to the National Age Assessment Board (NAAB).

The age of individuals who are subject to immigration control and claim to be children is often confirmed by reliable supporting evidence of age. Unfortunately, in many of these cases, a local authority or the Home Office has insufficient evidence to be sure of their age and a decision whether or not an age assessment is necessary needs to be made. Such a young person is considered to be an **age-disputed person**. This does not mean that an age assessment needs to be conducted in all these cases. Only where there is reasonable doubt over whether the young person is the age they claim (or are claimed) to be, should an age assessment be conducted. Otherwise, their claimed age will be accepted.

The decision whether there is reasonable doubt must take into account that age assessment cannot be concluded with 100% accuracy when definitive documentary evidence is absent, and in the case of unaccompanied asylum-seeking children who may also have been traumatised, is unlikely to be supported by other evidence.

## When a local authority must make a decision on age

A local authority needs to make a decision on age if:

- they need to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the young person
- the Home Office has notified the local authority in writing that it doubts that an age-disputed person in relation to whom the local authority has exercised or may exercise functions under relevant children's legislation is the age that they claim to be

When a decision on age is required, the local authority must decide whether it is satisfied that the individual is the age they claim to be and if they are not satisfied, they must either:

- conduct an age assessment on the age-disputed person itself
- refer the age-disputed person to the NAAB for an age assessment (in the event the local authority has been notified by the NAAB that the NAAB has sufficient capacity to accept the referral)

It should be noted that whilst in most of these cases, local authorities will have been notified by the Home Office that it doubts that the age-disputed person is the age that they claim to be and referred them to a local authority pending further consideration of their age, this will not always be the case. For example, this could



occur when the Home Office has not as yet encountered the young person or did not have reasonable doubt that the young person was the age they claimed (or were claimed) to be at the point of encounter. This could also occur when the Home Office is treating them as an adult following a determination by two officers (one of at least Chief Immigration Officer or equivalent grade) that the individual's physical appearance and demeanour very strongly suggests that they are significantly over the age of 18 and, as a consequence, the Home Office did not refer them to a local authority.

Regardless of whether the Home Office has or not doubted the young person's age, the local authority must make its own decision on whether it is satisfied that the young person is the age they claim (or are claimed), or whether there is reasonable doubt over whether they are the age they claim (or are claimed) to be. This is consistent with [Care of unaccompanied migrant children and child victims of modern slavery: Statutory guidance for local authorities](#), issued by the Department for Education, which states that:

‘Age assessments should only be carried out where there is reason to doubt that the individual is the age they claim. Age assessments should not be a routine part of a local authority's assessment of unaccompanied or trafficked children.’

Sometimes an informed decision on this cannot be made until the young person has been looked after by the local authority for a period of time – for example, to provide the local authority with sufficient opportunity to make an informed decision or to provide the young person with time to sufficiently physically recover from the journey to the UK. The individual's journey to the UK can be long and traumatic with limited opportunities to manage their basic physical health and self-care needs. With good care and some recovery time, a young person's physical appearance and demeanour can change within a relatively short period of time. As a consequence, it is not uncommon for a young person's age to be doubted immediately after their arrival in the UK, but shortly after there may be no good reasons to doubt their age. In other cases, there could be insufficient reason to doubt an individual's claimed age immediately after arrival, but then to have reasonable doubt that the individual is the age they claim (or are claimed) to be at a later date.

It should also be noted that local authorities often have an opportunity to observe a young person over a much longer period of time than the Home Office had when it initially made a decision to doubt the young person's age. Furthermore, it is likely that the expertise local authorities have through working with children on a daily basis will put them in a better position than the Home Office immigration officials who encountered the young person on arrival, to determine whether or not there is reasonable doubt that the young person is the age they claim (or are claimed) to be.

For guidance on when the Home Office must make a decision on age, refer to the Assessing age guidance.

## **Local authority decides to conduct an age assessment**

When the local authority doubts that the age-disputed person is the age they claim to be and proceeds to conduct an age assessment, the local authority must notify the

individual's Home Office decision making unit by email of this decision to conduct an assessment (refer to [Contact details for Home Office asylum decision making units](#) for further information).

Once the age assessment has been conducted, the local authority should let the Home Office know the outcome. The minimum they must do is to complete and submit the [age assessment information sharing pro forma](#) or equivalent to the Home Office. The provision of the pro forma will enable the Home Office to take into account the age assessment when making its own decision on age for the purposes of exercising immigration functions. The pro forma contains instructional text on the information required by the Home Office to ensure that the age assessment is case law compliant. Refer to the Assessing age guidance document for further information on the how the Home Office considers and assigns weight to local authority Merton compliant age assessments.

## **Notifying the Home Office that an age assessment is not required**

When the local authority is satisfied or does not have reasonable doubt that an age disputed person is the age they claim (or are claimed) to be and, as a consequence, an age assessment is not required (a decision under section 50(3)(c) of the [Nationality and Borders Act 2022](#)), they must inform the immigration or asylum decision making unit by email as soon as possible after the decision is made. This could entail written confirmation from the local authority that, after they have had a sufficient opportunity to observe the young person, it is in the professional opinion of the young person's social worker there is not reasonable doubt that the young person is the age they claim to be. If requested by the Home Office, the local authority must provide the Home Office with evidence it reasonably requires for it to consider the local authority's decision and make a decision on age for immigration purposes.

For guidance for Home Office decision making units on considering these notifications, refer to the Assessing age guidance.

## **Local authority referrals to the NAAB for an age assessment to be conducted**

Refer to [Referrals to the National age assessment board](#) for guidance on referring the age-disputed person to the NAAB for an age assessment.

## **When the Home Office can make a referral to the NAAB**

While it is expected that most NAAB age assessments will be conducted upon referral from a local authority, in certain situations age assessments can be conducted under section 51 of the [Nationality and Borders Act 2022](#) without a referral by a local authority being made, for the purposes of deciding whether or how the Home Office should exercise any immigration functions in relation to those young people. Some scenarios where this could occur are specified below:

## Scenario 1 (section 51(2)(a))

While most young people whose age is doubted are unaccompanied, some are accompanied. A young person is defined as accompanied if they are being cared for either by parents or by someone who in law or custom has responsibility to do so. Accompanied children are less likely to ask for and be provided with support from a local authority under relevant children's legislation. This would usually be because both:

- the young person claims to be a dependant of an adult and does not require accommodation or support from a local authority
- the local authority does not have legitimate interest in enquiring into the circumstances of the young person to determine whether they may be a child in need or a child in need of safeguarding or protection

Regardless of whether a young person is unaccompanied or accompanied, it is essential that age assessments are conducted where there is reasonable doubt that they are the age they claim (or are claimed) to be. Where the individual is not in the care of a local authority and is not claiming to be an unaccompanied child, the NAAB may conduct an age assessment on an age disputed person when the following criteria are satisfied:

- the young person is subject to immigration control and the Home Office needs to decide whether or how it should exercise any immigration functions in relation to that individual
- the Home Office has insufficient evidence to be sure of their age
- the Home Office has reasonable doubt that the young person is the age they claim (or are claimed) to be
- they have either claimed to be a child or have claimed to be an adult but are suspected to be a child
- the young person has not been treated as an adult following a determination by 2 officers (one of at least Chief Immigration Officer or equivalent grade) that the individual's physical appearance and demeanour very strongly suggests they are significantly over the age of 18
- section 50(3) and section 50(4) do not apply – this would be where the local authority does not need to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the young person

## Scenario 2 (section 51(2)(b)(ii))

When a local authority either conducts an age assessment or accepts the claimed age of an age disputed person without conducting an age assessment, the Home Office will consider that decision (refer to the Assessing age guidance for further information on this process). In most cases, the Home Office's decision on age will concur with the local authority's decision. However, situations may arise where the Home Office has legitimate reasons to disagree with the local authority's decision. For example, this could occur when the decision either:

- does not seem to be supported by evidence
- appears to have placed excessive or insufficient weight to documentary evidence, or did not take into account documentary evidence
- appears to not adhere with the general principles set out in the Merton judgment and further case law

Where this situation arises, the immigration and asylum decision making unit must contact the local authority to raise and, ideally, resolve these concerns. Guidance on contacting a local authority in these circumstances is located in the Assessing age guidance. If the Home Office's concerns with the local authority's decision have not been resolved and the young person is being looked after by an English local authority, the [Age assessment joint working guidance](#) must be referred to (note that this guidance only applies to England, but the best practice within this document can also be helpful in resolving concerns with age assessment decisions made by local authorities in Scotland, Wales or Northern Ireland).

In most cases, it is likely that any doubts the Home Office has with the local authority's decision will be resolved once one or both of these steps have been undertaken. However, if the Home Office still disagrees with the local authority's decision and has reasonable doubt that the young person is the age they claim (or are claimed) to be, immigration and asylum decision making units can make a referral to the NAAB for an age assessment to be conducted if the NAAB has been consulted and agrees that an age assessment is required.

If the NAAB is commissioned to undertake an age assessment, the local authority and, if in Northern Ireland, the Independent Guardian Service must be notified.

### Scenario 3 (section 51(2)(b)(i))

If the Home Office has reasonable doubt that the young person is the age they claim (or are claimed) to be, a referral can also potentially be made to the NAAB at any time before the local authority has either:

- referred the age disputed person to the NAAB for an age assessment to be conducted
- informed the Home Office in writing of the result of its own Merton compliant age assessment after the local authority conducted the age assessment itself
- informed the Home Office in writing that it is satisfied that the individual is the age they claim, without the need for an age assessment

A referral in these circumstances would normally be where the local authority has not undertaken these actions within a reasonable timeframe and has not provided a reasonable explanation for having failed to do so. However, before making such a referral, the process in [Scenario 1](#) on resolving differences of opinion between the Home Office and local authorities must be followed. Referrals to the NAAB in these circumstances would only take place in the rarest of circumstances.

Guidance on the implications of an age assessment conducted under section 51 of the 2022 Act is located in [NAAB age assessments conducted following a referral by the Home Office](#).

## Application of this guidance for Home Office referrals to the NAAB

Although the Home Office can refer young people to the NAAB for age assessments to be conducted in the circumstances listed above, most of the process guidance within this document is primarily directed at age assessments conducted following a referral from a local authority. There are process differences between age assessments requested by the Home Office and those requested by local authorities. For example, if a local authority has not exercised functions under relevant children's legislation in relation to the young person and is not considering doing so, they are unlikely to be involved to any significant extent in the assessment of the young person's age.

Depending on the individual circumstances, age assessments conducted by the NAAB under section 51 may not be able to take into account information provided by the local authority or rely on the local authority to put in place arrangements for the age assessment meetings with the young person to be taken place. In these circumstances, the NAAB may, for example, need to take steps to collect information from those who play a role in the young person's life, including, where appropriate, teachers, health professionals, psychologists, and independent guardians. Alternative arrangements will also need to be made for suitable meeting rooms and attendance of the young person, an appropriate adult and interpreter.

### Related content

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# Referrals to the National Age Assessment Board

This page provides information for local authorities on the process which must be followed when making referrals to the National Age Assessment Board (NAAB) for an age assessment to be conducted.

## Which local authorities can make referrals to the NAAB?

Although it is the Home Office's long-term ambition that the NAAB will have sufficient capacity to meet all the demand for its services, in the interim, the NAAB will be launched as a minimum viable service (MVS) in a phased approach to full implementation. The NAAB's finite capacity on launching with the MVS will significantly limit the number of age assessments it can conduct. For this reason, a capacity management approach will initially be used to ensure resource is directed where it is most needed. The NAAB will launch with a small number of local authorities and expand out as capacity builds up. This will mean that not all referrals will be accepted by the NAAB. If the NAAB cannot accept a referral, the local authority will instead need to proceed to conducting age assessments itself.

To make a referral to the NAAB, a referral form should be sent to the NAAB via MOVEit (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on Sending information securely). There is no timeframe within which a referral must be made for it to be accepted.

In Northern Ireland, the Trust is required to advise and consult with the young person's Independent Guardian and legal representative prior to making a referral to the NAAB for an age assessment to be conducted.

## Decision by the NAAB on whether to conduct an age assessment

When a referral for an age assessment is received from a local authority, the NAAB must assess whether the referral can be accepted. The conditions that must be satisfied include:

- the young person is an age disputed person and there is reasonable doubt that they are the age they claim (or are claimed) to be
- the NAAB has capacity to conduct the age assessment
- an age assessment is in accordance with the duty under [section 55 of the Borders, Citizenship and Immigration Act 2009](#)

## Provisional acceptance of a referral

Where a decision is made to provisionally accept the referral for an age assessment, the NAAB must promptly email the local authority notifying them that the NAAB has accepted the referral. This notification must also:

- request that the local authority notifies the young person and, if in Northern Ireland, their guardian appointed by the Northern Ireland Independent Guardian Service, that the NAAB will be conducting an assessment of their age and provide an overview of the process so they understand what it entails, and
- if the local authority has not already signed and returned a NAAB and Local Authority Working Arrangements document:
  - attach a copy of the document to the notification
  - request that the local authority reads the document, and if in agreement, signs and returns it to the NAAB
- enclose a copy of the Age Assessment Privacy Notice and request that the local authority issues the notice to the young person and explains its contents to them - the privacy notice explains how the information collected by the NAAB about them will be processed

The working arrangement document sets out what is required from the local authority in order for the NAAB to begin accepting referrals from the local authority for age assessments to be conducted, including that the local authority will need to provide any assistance that the NAAB reasonably requires for the purposes of conducting assessments and explains what this is likely to entail – for example:

- the information listed in [Information required from a local authority](#), which must be provided to the NAAB within 5 working days of receipt of the provisional acceptance by the NAAB of an age assessment referral
- arrange for appropriate adults, interpreters and the young person to be present during the interview(s) and, if arranged, the minded-to meeting and decision service meeting
- arrange suitable meeting rooms for the age assessment meetings – the location should take into account the individual circumstances and the environment should be child-friendly and non-threatening (it is expected that in most cases, the meetings will take place on local authority premises)

Once the referral has been provisionally accepted, the NAAB must update the workflow management system on SharePoint to record:

- that a referral for an age assessment has been provisionally accepted by the NAAB
- details of the young person, the guardian appointed by the Scottish Guardianship Service (if in Scotland) or the Northern Ireland Independent Guardian Service (if in Northern Ireland)
- the name and contact details of party which made the referral
- the date the referral was provisionally accepted

Upon receipt of the provisional acceptance notification from the NAAB, the local authority and the guardian appointed by the Northern Ireland Independent Guardian Service (if in Northern Ireland), should review what is expected from them and determine whether to continue with the referral in these circumstances. Where a decision is made to withdraw the referral, the NAAB must be notified by email immediately.

## Declined referrals

When a decision is made to decline the referral for an age assessment to be conducted, such as due to absence of required information or lack of capacity to conduct the assessment within a reasonable timeframe or the NAAB does not have reasonable doubt that they are the age they claim (or are claimed) to be or because the young person does not qualify as an age disputed person, the NAAB must:

- notify the party which made the referral and the guardian appointed by the Northern Ireland Independent Guardian Service (if in Northern Ireland), and explain why the referral is being declined – this notification should be sent via email or, if it contains personal data, via MOVEit (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on Sending information securely)
- update the workflow management system on SharePoint

In cases when the referral has been declined due to the absence of required information, it is open to the local authority to submit another referral once the information has been added or it provides a reasonable explanation for why the information cannot be provided.

Circumstances in which the NAAB may not have reasonable doubt that the young person is the age they claim (or are claimed) to be could, for example, occur when the NAAB:

- believes that specific information has not been assigned appropriate weight by the local authority, or
- has information the local authority is not aware of – this circumstance is expected to be rare due to the expectation that the Home Office should disclose information relevant to the assessment of age before the local authority makes a decision whether an age assessment is required

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# Information required from a local authority

This section provides guidance on the information that must be provided by a local authority following a decision by the National Age Assessment Board (NAAB) to provisionally accept a referral for an age assessment to be conducted.

When the NAAB decides to conduct an age assessment and notifies the local authority of this decision, the local authority must provide any assistance, including the provision of relevant information, that the NAAB reasonably requires from them for the purposes of conducting that assessment. This will help ensure that the assessment:

- is lawful
- safeguards and promotes the welfare of the young person, including that their best interests are a primary consideration, in line with the duty under [Section 55 of the Borders, Citizenship and Immigration Act 2009](#)
- takes into account potential safeguarding concerns
- is based on the widest evidence base reasonably available
- is conducted at an appropriate time

The following information must be provided by local authorities to the NAAB, via MOVEit (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on Sending information securely), within 5 working days:

- a completed age assessment referral form – this form requests the following information:
  - the young person's name, contact details, gender, ethnicity, languages spoken
  - family background, health (physical and mental), education and life history (if the young person has provided this information to the local authority)
  - information on why their age is doubted
  - additional information the young person, local authority and, if in Northern Ireland, the guardian appointed by the Northern Ireland Independent Guardian Service, may wish to bring to the attention of the NAAB
  - a named local authority contact and, if in Northern Ireland, the name of the guardian appointed by the Northern Ireland Independent Guardian Service, for use by the NAAB to raise concerns or make recommendations regarding the welfare of the young person
  - whether there is any preference on the gender of the interviewing social workers, interpreter and appropriate adult, and the reasons for this
  - whether the young person has any other particular requests in regard to their interviewers
  - confirmation whether a previous assessment has been carried out by a local authority and the outcome
  - any factors which may impact upon the timing of the interviews (for example, cultural reasons, religious reasons, welfare concerns or health conditions)

which may impact a young person's ability to engage in assessment interviews)

- views expressed by the young person (if provided)
- if in Northern Ireland, views expressed by the guardian appointed by the Northern Ireland Independent Guardian Service
- copies of the following documents (where applicable and available):
  - Management oversight (case note, supervision record, etc) indicating the local authority's rationale as to why an age assessment is required
  - care plan (or, if the care plan has not been finalised, until the care plan can be provided, a copy of the interim care plan must be provided) - every child who is looked after will have a care plan drafted soon after becoming a looked after child, which sets out what services and other help will be provided to them and, if applicable, their family
  - pathway plan— this document is drafted for children in local authority care, aged 16 or older, and is intended to help them prepare for leaving care and includes plans for their education, training and development, health, financial management and contact with family
  - Independent Reviewing Officer's (IRO) report - IROs are experienced senior social workers employed by the local authority, but work separately to the social workers assigned to looked after children, and provide independent oversight of the child's case and make sure that the child's interests are protected throughout the care planning process (in England and Wales only)
  - Annual medical report (sometimes also referred to as a Looked After Child health plan or assessment) – these are conducted by registered medical practitioners
  - any age assessment reports (if an age assessment has previously been conducted)
  - if in Northern Ireland, the independent guardian's report
  - Personal Education Plan (PEP) – most looked-after children have a PEP which is updated termly, in cooperation with a young person's school or college (where the young person does not have a PEP, information on educational support will normally be included in the Care Plan)
  - children and family assessment – this is an assessment of what services are needed and who should provide them, carried out by a local authority social worker
  - contact report – this outlines the grounds of referral of the young person to the local authority (if the contact report is not available, the information will normally have been included in the care plan)
  - case notes – these are maintained by the young person's social worker (should only be provided if some of its contents are relevant to the assessment of age and where some of the content are not relevant, this should be redacted)
  - written statements containing observations on the young person's age, provided by, if applicable: their allocated social worker, case worker, foster carer or key worker and, if in Northern Ireland, the independent guardian (using an Age Assessment Observation Report)
  - where available and if applicable, written statements containing observations on the young person's age, provided by other key professionals, such as: education professionals (such as their teachers), IRO, independent advocate, healthcare professionals (such as their doctor, paediatrician,

- psychotherapist or psychiatrist), a guardian provided by the Scottish Guardianship Service, and contactable relatives of the young person - if assessed as appropriate (using the Age Assessment Observation Report)
- any other significant sources of information a local authority may feel relevant in contributing towards an assessment

These documents contain information which will usually be relevant to the assessment of age, but it is open to the local authority to redact certain content of these documents if they believe some of the information goes beyond that necessary for the age assessment to be conducted or, in the event they believe a document does not contain information relevant to the assessment of age, they can notify the NAAB of this and not disclose the document. For guidance on how the NAAB will use, store and delete information collected by the NAAB, refer to [Sharing information](#).

Some of the documents requested, such as the care plan or Independent Reviewing Officer's report, may not have been finalised at the point of referral and, in some cases, may only be available when the young person has been looked after for some time. Where this is the case, they must be submitted to the NAAB as soon as possible after they have been finalised, if the age assessment is still ongoing.

It should also be noted that there is variation between local authorities in the documentation completed by them or with the names assigned to the documentation. Where variation exists, the guidance should be read as applying to the equivalent documentation.

Upon receipt of these documents from the local authority, the NAAB must:

- upload the documents on to SharePoint and, if they were received via MOVEit, subsequently remove them from MOVEit
- update the workflow management system to record receipt of the information and if certain information remains outstanding
- update CID to record acceptance of the referral by raising a 'Age Dispute – Referred to NAAB for Assessment' special condition flag and creating a 'NAAB referral accepted' Admin Event

Until the age assessment process is concluded, the NAAB must remain vigilant to the availability of additional information relevant to the assessment of age and to changes in circumstances which could require steps to be taken to obtain additional information.

High quality age assessments and the safeguarding and welfare of unaccompanied children are best achieved when all relevant agencies with a formal role in that young person's life co-operate and work together. The age assessment process and the provision of care to the young people whose ages are being assessed are inherently interconnected. For example, not only will local authorities be in possession of a considerable amount of information relevant to the assessment of age, a lot of the information collected from the young people during the assessment of their age will be relevant to the provision of appropriate services by local authorities.

The period between the local authority making a referral to the NAAB for an age assessment to be conducted and the decision on age provides a further opportunity for the local authority to collate information relevant to the assessment of age and identify individuals who may have relevant information (for example, foster carers and teachers). Also, as previously stated, a young person's physical appearance and demeanour can change over a relatively short period of time, once they have had some time to recover from their often traumatic journeys to the UK and it is important that the local authority's observations on these changes are taken into account as part of the assessment of age. Therefore, regular dialogue should be maintained throughout the process with the local authority to ensure that they are sufficiently involved in the assessment of age of the young person and that any new information or changes in circumstances are promptly taken account of by both the NAAB and by the local authority.

#### **Related content**

[Contents](#)

# Age assessment planning process

This section provides guidance for the National Age Assessment Board (NAAB) on planning how the age assessment will be conducted.

The manner in which the age assessment is conducted will be determined by the individual circumstances. For example, assessing social workers need to consider:

- the timeframe for concluding the age assessment, including the timing, length and suitable venue for the meetings with the young person
- the arrangements that need to be put in place to:
  - safeguard and promote their welfare in order to adhere to [Section 55 of the Borders, Citizenship and Immigration Act 2009](#)
  - to make the interview as positive experience for the young person as reasonably possible
  - how to create an environment which enables and encourages their full participation
- whether an interpreter is required
- sources of information available and which source should be utilised as part of the assessment
- how cultural factors could impact on the young person's participation during the process, including the impact of culture on memory, and perceptions of authority and justice
- their communication abilities

To help inform some of these decisions, based on the information collected so far, in particular that provided by the local authority, the NAAB must consider the following:

- whether the young person is or has potentially been a victim of trafficking or has experienced abuse
- the young person's maturity
- physical and medical needs, including mental health
- whether they have learning difficulties
- whether they have experienced mental or emotional trauma, and recognise the risk that the age assessment process may well trigger historic trauma and, as a consequence, negatively impact on the young person's ability to participate with the assessment
- whether they have any other vulnerabilities or needs which need to be considered

If insufficient information is available to undertake these considerations, the NAAB should take steps to obtain it before progressing to the age assessment interview phase of the process.

Welfare or safeguarding concerns about the young person (including concerns that they may be a victim of trafficking) should have been identified ahead of the age assessment interview. However, if during the age assessment process the NAAB identifies welfare or safeguarding concerns about which the local authority is not or

may not be aware, the NAAB must immediately notify the local authority. As more information is obtained, the local authority must be kept updated. In emergencies, the police must be contacted immediately. When a safeguarding referral to the police is made, the NAAB must also immediately notify the Home Office safeguarding unit care referrals inbox. For further information, see the Local authority child referrals.

## Obtaining, collating and reviewing evidence

While a significant amount of information will have been collected from the local authority, the NAAB must assess what other sources of information are available which could help inform the decision on age and the manner the assessment is conducted. A non-exhaustive list of potential information sources is shown below:

### Home Office records

The NAAB must identify whether relevant information has been collected by the Home Office during the process of considering the young person's asylum or immigration application. Below is a non-exhaustive list of documents which, if applicable and available, may contain relevant information:

- Unaccompanied child welfare form (ASL.5097(a) or ASL.5097(b)) - this form is used by the Home Office to obtain information from unaccompanied children that is necessary for a meaningful immigration booking-in process, including information relevant to the individual's identity, their needs and any welfare concerns
- screening questionnaire (ASL.3211) – this questionnaire is completed as part of the registration process for adult main applicants and their dependents, and will contain information relevant to the individual's identity, family, background, travel history, health and welfare
- Local authority child referral form – completed when making safeguarding referrals to local authority children's services where the Home Office identifies a child at risk of harm or in need
- [Unique Unaccompanied Child Record Part A: Transfer Request](#) – this document is completed by entry local authorities when referring children into the National Transfer Scheme (NTS) – the NTS is a mechanism for the safe transfer of unaccompanied children in the UK from one local authority to another local authority
- IS.97M and IS.98M – these are Home Office age assessment decision letters issued by immigration officials to age disputed persons
- ASL.3596 (also known as BP7) – this is a minute sheet used to record the reasons why a claimed age has been disputed by the Home Office and is completed by immigration officials
- [unaccompanied asylum-seeking children statement of evidence](#) (SEF) or [Preliminary Information Questionnaire](#) (PIQ):
  - the SEF is completed by unaccompanied asylum-seeking children to provide the Home Office with information about their asylum claims (note that as young people have 60 days to complete the SEF it is unlikely to be available for a significant number of age assessments conducted by the NAAB)

- the PIQ is completed by adult asylum seekers to provide the Home Office with information about their asylum claim
- witness statements – these are sometimes submitted in addition to a children’s SEF or PIQ in support of an application for asylum
- asylum interview records
- Central Reference System (CRS) - CRS is used to store information about visa applications, including personal details of the young person, a photograph of them, details page from the individual's passport, notes from a question and answer interview or refusal notices associated with the application
- Country of origin information – refer to Country policy and information for further information
- CID notes

Much of this information will be stored on CID or Atlas and requests to obtain this information from these record systems should, if required, be sent to the immigration or asylum decision making unit.

When using information collected by the Home Office during the welfare interview and screening, NAAB social workers should take into account that the reliability of this information may be influenced by the environment and timing of the interview, and the young person’s mental state at the time the interview was conducted. In addition, the NAAB should also take into account that a responsible adult or legal representative are unlikely to have been present when the information was collected.

## Other sources of information

The NAAB must be prepared to look at other sources of information in order to assess the young person’s claimed age. These sources may include:

- if the claimant is located in England or Wales and has been assigned an Independent Child Trafficking Guardian (ICTG), the ICTG should be notified that an age assessment will be conducted on the young person and provide them with an opportunity to provide information in support of the young person’s claimed age and what arrangements need to be put in place to safeguard and promote their welfare during the assessment process
- the Refugee Council’s Independent Unaccompanied Asylum Seeking Children Service
- if the claimant has a legal representative, they should be notified that an age assessment is being conducted and given an opportunity to provide information to support the assessment of their client’s claimed age
- information from other countries, such as from the authorities of European Union member states, the young person came into contact with during their journey to the UK
- publicly accessible social media profiles (open source material) identified through internet searches – refer to [Social media research](#) for further information

Information obtained through these enquiries which is relevant to the assessment of age, must be saved in the young person's casefile on SharePoint and once sufficient information has been obtained to proceed with the age assessment process, this decision must be recorded on the workflow managements system on SharePoint.

## Contacting countries of origin

Asylum claimants and their families may be at risk of serious harm if their personal data or other information regarding them is brought to the attention of the authorities or non-state actors in their country of origin. For this reason, the authorities in the country of origin must not be contacted as part of an age assessment where an asylum claim is under consideration. Even where appeal rights have been exhausted, details of asylum claims must not be shared and no reference be made to the fact that claims for asylum were made in the UK.

If an asylum claim has been made, the NAAB must adhere to [Paragraph 339IA of the Immigration Rules](#). This states that, for the purposes of examining individual applications for asylum:

- (i) information provided in support of an application and the fact that an application has been made shall not be disclosed to the alleged actor(s) of persecution of the applicant, and
- (ii) information shall not be obtained from the alleged actor(s) of persecution that would result in their being directly informed that an application for asylum has been made by the applicant in question and would jeopardise the physical integrity of the applicant and his dependants, or the liberty and security of his family members still living in the country of origin

This paragraph shall also apply where the Secretary of State is considering revoking an individual's refugee status in accordance with these Rules.

For information on obtaining and handling information in asylum cases, please refer to the Disclosure and confidentiality of information in asylum claims guidance.

## Social media research

The NAAB must be prepared to look at a number of sources of information in order to assess the young person's claimed age. These sources may include publicly accessible social media profiles (open source material).

When carrying out age assessment related research on the internet research (searching for and accessing open source social media profiles) the following requirements must be adhered to by the NAAB:

- social media searches must only be conducted if in accordance with the Home Office's policy on carrying out work-related research on the internet

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**Official – sensitive: start of section**



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- all staff conducting the research must be appropriately trained – this includes completing the following training courses:

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- [Data protection](#)
- local NAAB training on conducting social media research for age assessment purposes

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**Official – sensitive: end of section**

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- only search for information relevant to the assessment of the young person's age
- maintain records of the research undertaken for audit purposes, including:
  - the social media platforms accessed
  - the number of times they were accessed
  - why they were accessed, including, if applicable, why they were accessed more than once
  - who accessed them
  - the type of information retrieved
  - the duration of these checks
- take screen shots of information that is relevant to the assessment of age
- the research must not be persistent, for example, each social media profile must not be repeatedly accessed and must not be viewed any longer than necessary to ascertain if the profile contains relevant information and to collect that information
- where relevant information is identified and screenshots are taken of this information, these screenshots must be stored in the young person's case folder in SharePoint
- NAAB supervisors must take appropriate steps to monitor that this guidance is adhered to

Information relating to other people (collateral intrusion) may be collected as part of the search for information relevant to the young person's age and care will need to be taken that this information is only retained if necessary for the purpose of assessing the young person's age. The above safeguards also apply to this type of information.

## Contacting parents and family members

Where contact details for the young person's parents and other family members are known, they are another potential source of information. However, family members should not be contacted until after a careful assessment of the suitability of doing so is conducted. Where the young person is in the care of a local authority, the views of the local authority must be obtained. This assessment will need to take into account, but not necessarily limited to:

- whether the young person is already in contact with the family member
- potential risk to both the child and their family, including child protection issues
- the duty under [section 55 of the Borders, Citizenship and Immigration Act 2009](#)
- data protection obligations
- [Paragraph 339IA of the Immigration Rules](#)

Helpful information on whether it is appropriate to contact family members, including the suitability of steps to establish contact, can be found in the Family tracing guidance.

## Authenticity of documents

When there are concerns regarding the reliability of identity documents submitted as part of the age assessment process, the NAAB must, as applicable, consider the following non-exhaustive list of considerations:

- when the document was issued and by whom
- what evidence was needed to obtain the document (for example, birth certificate needed for a passport)
- whether the young person was required to sign a declaration confirming correct details and, if so, whether they were aware of the content of this notification - it is sometimes the case that young people are asked to sign documents about which they have little or no understanding
- whether the young person reported any errors to the issuing authority (if so, when and with what outcome)
- whether the young person used the document (for example, for travel or using a birth certificate to obtain other documents or benefits)
- whether the young person is a victim or potential victim of trafficking and, if so, any implications this may have – for example, the young person may have been provided with documents in an attempt to minimise scrutiny by officials
- the country situation, objective evidence of strict procedures
- the consequent likelihood of the young person's explanation being true

The above considerations are only a starting point when attempting to establish the likely reliability of documents. The NAAB must also keep in mind that because of the possibility that the document was provided by a third party, the young person may not be able to provide certain information on the circumstances in which it was obtained.

When there are concerns regarding the reliability of a document:

- the relevant country of origin information material must first be fully considered
- the concerns must be explored with the young person
- guidance can be sought from a NAAB supervisor or, if available, a local document fraud expert

If further concerns remain, documents may be referred to the National Document Fraud Unit (NDFU) where appropriate.

## Allocating social workers

The NAAB will need to allocate 2 social workers to conduct the age assessment. When deciding which social workers to allocate, the NAAB should take into account the following:

- if the circumstances of the case are such that the individual is being re-assessed (for example, they are undergoing a second age assessment), it is preferable for those who undertook the first assessment not to take part in the second
- give consideration to the gender of the social workers, including whether the young person would prefer social workers of a specific gender, as the assessment may involve discussion of sensitive subjects such as puberty, relationships and sexual assault
- the training and experience of the social workers
- the roles assigned to each of the social workers

## Considering whether to conduct an interview

Before making a decision to conduct an age assessment interview with the young person, the NAAB must review all the information collected, including in relation to their physical and mental health, to establish whether it is appropriate for them to be interviewed.

Most age assessments will require one or more interviews to be conducted by the NAAB, with the number of interviews required determined by the individual circumstances. But there will be cases where an interview is not required or appropriate, such as where:

- the interview is contrary to the duty to have regard to the need to safeguard and promote the welfare of children who are in the UK
- where a decision that the claimant is the age they claim to be can be made without conducting interviews

- where the young person refuses to be interviewed

## When an interview is not possible

If it is not possible to interview a young person, the NAAB social workers must review the information relevant to the assessment of age already in the NAAB's possession, determine whether this information is sufficient to make a decision on age and consult their NAAB supervisor. If the information does not meet this threshold, the NAAB should consult with the local authority to determine whether there is any other way of getting the information needed to make the decision on age.

## Notifying the local authority that the NAAB will proceed with the assessment of age

Once the NAAB has confirmed that it has obtained sufficient information to proceed to the age assessment interview stage of the process, it must:

- notify the local authority by email that it will proceed with conducting the interview stage of the process and provide expected timeframe within which the age assessment will be conducted
- provide the local authority with an opportunity to provide additional information
- update the workflow management system on SharePoint
- create a 'NAAB Age Assessment Started' Admin Event in CID

### Related content

[Contents](#)

# Organising and conducting age assessment meetings

This section provides guidance for the National Age Assessment Board (NAAB) on organising and conducting age assessment meetings – this includes interviews, minded-to meetings and decision service meetings.

Once the NAAB social workers are satisfied that they have enough information to proceed to interviewing the young person, the NAAB must liaise with the local authority and, if in Northern Ireland, the independent guardian to arrange the interview(s) and subsequently, where required, the minded-to meeting and the decision service meeting, taking into account the factors which may influence the timing. Such factors would include the availability of the young person, their social worker, appropriate adult, the NAAB social workers and relevant welfare issues, for example, if the young person needs time to be physically and emotionally fit to be interviewed. For each of the meetings, NAAB administration staff must request that the local authority and, if in Northern Ireland, their Independent Guardian Service, puts in place arrangements for the meeting to be conducted and provide target dates within which the meetings should ideally take place. These arrangements include:

- agreeing the times and dates for the meetings
- arranging meeting rooms – these rooms:
  - should ideally have Wi-Fi and printer
  - must be a child-friendly setting
  - must be within a reasonable travelling distance for the young person, normally at a location within the local authority’s jurisdiction or, ideally, near to where the young person lives
- arranging security access for attendees to the meeting rooms
- arranging the attendance of the young person, including their transport to the meetings if required
- arranging the attendance of an appropriate adult (in Northern Ireland, the Independent guardian will normally perform this role)
- arranging an interpreter (if assessed as required by the local authority)

The local authority and, if in Northern Ireland, the Independent Guardian Service, will have responsibility for liaising with the young person to confirm their availability and notifying them of the time, date and transport arrangements once these have been arranged. Age assessment interviews, minded-to meetings and decision service meetings should only be conducted in the physical presence of the child.

Once the local authority has confirmed the date and time of the meeting by email, the NAAB will finalise the arrangements for the attendance, in-person, of the assessing social workers at the meeting, including, if required, arranging their accommodation and transportation. A meeting between the NAAB social workers and the young person’s social worker and, if in Northern Ireland, the Independent Guardian Service, may be required to ensure suitable arrangements are in place, to

identify any additional safeguarding risks that need to be taken into account and decide what steps to take in response to any safeguarding concerns identified.

The workflow management system on SharePoint must be updated by the NAAB to record the arrangement and completion of an age assessment meeting.

## Welfare concerns

In all cases, the immediate welfare of the young people must be considered, safeguarded and promoted. Any modern slavery or urgent welfare concerns must be dealt with as a matter of priority involving senior managers and other relevant agencies, such as local authority children's services or the police. For further information on what to do if there are welfare concerns, refer to the 'Immediate welfare concerns' and 'Safeguarding referrals to local authorities' sections of the Children's asylum claims guidance.

## Interpreters

An appropriately skilled and qualified interpreter must be provided for the age assessment meetings with the young person if this is necessary – this includes interviews, minded-to meetings and decision service meetings. The interpreter should have experience with working with children and can fulfil the roles set out below. Consideration should be given to the gender of the interpreter, including whether the young person has requested an interpreter of a specific gender, particularly if the assessment will involve discussion of sensitive subjects such as puberty, relationships and sexual assault. Where the NAAB has been commissioned to conduct an age assessment by a local authority, the local authority will have responsibility for arranging the presence of the interpreter. However, if exceptional circumstances prevent the local authority providing the interpreter, they should notify the NAAB as soon as possible and the Home Office may be able to arrange and fund the presence of an interpreter.

Where possible the meeting should be conducted in the first or preferred language of the young person. Should it prove impractical to engage an interpreter for the young person's first or preferred language, the NAAB should establish if there is an alternative language they have sufficient command of.

## Role of the NAAB interpreter

The interpreter must ensure adequate and appropriate interpretation and that child-friendly and age-appropriate language is used. It might be the case that the young person requires more clarification in order to understand the questions posed to them. In this case, the interpreter should proactively inform the social worker of the young person's initial response, and then indicate that the young person might not have fully understood the question. The social worker will decide whether or not a follow-up question is required.

During interviews with young people, it is necessary for the interpreter to pay extra attention to their own body language and demeanour. If body language is

intimidating or threatening, this could have significant implications on what information the young person chooses to reveal or conceal. Body language might be improved by demonstrating attentiveness to what the young person is saying and avoiding expressions of frustration when the young person's speech is difficult to comprehend.

The interpreter must also demonstrate cultural awareness in terms of the way the young person interacts with adults. In some cultures, for example, young people demonstrate respect towards their elders by avoiding eye contact. Some young people, particularly younger children, may automatically view the interpreter as a cultural authority figure, role model and even a parental substitute in the interview situation. In those cases, the interpreter can raise this as a point of concern.

An interpreter must:

- inform the social worker immediately if they have any difficulty in interpreting
- interpret to a high standard
- conduct themselves in a professional manner
- conduct themselves in an impartial manner, providing an impartial interpretation of the age disputed person's responses
- respect confidentiality at all times, treating everything heard or seen as confidential
- confirm they are interpreting the correct language and / or dialect at the beginning of the interview, any differences in language or dialect being interpreted must be raised with the social worker and appropriate adult at the earliest opportunity
- be in a fit state to interpret effectively throughout the interview
- speak slowly and clearly
- be aware that they will be interpreting for vulnerable young people and must behave accordingly
- retain every element of information that was contained in the original message and interpret in as close to verbatim as English allows – they cannot attempt to summarise what has been said
- spell out names or unusual words said by the social worker or young person
- remain calm, especially if they hear unpleasant or controversial evidence – their duty is to remain professionally detached from what they are interpreting
- should the interpreter deviate from the specific question in order to seek clarification, they must inform the social worker and appropriate adult exactly what is being said
- interpret, in direct speech (verbatim), the questions asked by the assessing social workers and the responses given by the young person – for example, the interpreter must say, "I attended a demonstration ...", not, "he said he attended a demonstration ..."
- interpret language which may be offensive – for cultural reasons, obscenities may be difficult to translate – in this case they must look for the closest equivalent
- if the claimant begins to speak another language or dialect, the interpreter must alert the social workers and appropriate adult immediately
- hand over any notes taken during the interview

An interpreter must not:

- question the content of the interview, offer an opinion, comment or declare any personal observations on truthfulness or ethnic origin of the young person, nor their religious or political beliefs, or sexual orientation or gender identity
- allow their personal political, religious, philosophical or other beliefs to influence their professional attitude or the quality provision of translation
- try to anticipate what the social workers or young person are trying to say or give an answer different from the one being provided
- interrupt the progress of the interview other than to make a correction to the interpretation, request clarification, resolve a misunderstanding, alert the social workers and appropriate adult to a possible missed cultural inference or draw attention to any distractions
- interpreters must not ask the young person what they mean by a particular answer – they must ask the social worker's and, if in Northern Ireland, the Independent Guardian's permission to ask the young person to repeat or clarify
- interpreters must not show emotions – the only reactions they must express are those of the young person
- indulge in general conversation with the young person, other than to establish that they speak the same language or dialect, before, during or after the interview
- be acquainted with or related to the young person or anyone associated with their case (whether there are any community links between the young person and the interpreter should also be considered)
- accept an assignment if they have previously acted as the interpreter for the legal representative on their application for leave to remain, including claims for asylum

## Role of the social workers and, if in Northern Ireland, the Independent Guardians, in the interpreter process

In advance of the interview, the social workers and, if in Northern Ireland, the Independent Guardian should brief the interpreter to ensure understanding:

- of their role, emphasising their impartiality, professionalism and the confidentiality of the process
- the social worker's and, if in Northern Ireland, the Independent Guardian's, planned approach to the interview
- any pertinent considerations relating to the interviewee

The social workers are responsible for the overall conduct of the interview. The social workers must ensure that:

- the child is not left alone with an interpreter at any point
- the interpreter is aware that they cannot retain any notes they make during the interview
- they retain the interpreter's notes at the end of the interview



- they confirm at the start that the young person is content to be interviewed in the language or dialect for which the interview has been booked and that they understand the interpreter

If the interpreter service has been provided in the correct dialect or language, but the young person does not understand the interpreter or objects to the interpreter for reasons unrelated to the language in use, for example, on grounds of their view of the interpreter's ethnic origin or religion, the social workers should endeavour to find out the nature of the difficulties and address them. If the young person is genuinely having difficulty with the language, the social workers must suspend the interview, and discuss the issue with their supervisor about arranging an alternative interpreter.

If the social workers have concerns over the interpreter's conduct or ability, they should call a break and discuss the concerns with the interpreter outside the interview room. If it is not possible to resolve the problem, the social workers must suspend the interview, and discuss the issue with their supervisor before arranging an alternative interpreter.

## Appropriate adults

It is a legal principle that the young person must normally be offered the opportunity to have an appropriate adult present during the age assessment interviews, minded-to meetings and decision service meetings undertaken by the NAAB. Where the NAAB has been commissioned to conduct an age assessment by a local authority, the local authority will have responsibility for arranging the presence of the appropriate adult. Information on the role of appropriate adults is located in the ADCS' [Age assessment guidance](#).

When assigning appropriate adults in Scotland and Northern Ireland, the NAAB must take into account [section 11 of the Human Trafficking and Exploitation \(Scotland\) Act 2015](#) and [section 21 of the Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#), respectively.

In Northern Ireland, section 21 requires that the NAAB recognises, and pays due regard to, the functions of an independent guardian assigned to them, including the guardian's function of accompanying the young person to meetings. Where a guardian has been assigned to the young person by the Northern Ireland Independent Guardian Service, they will undertake the role of appropriate adult.

In Scotland, section 11 requires that the NAAB must recognise, and pay due regard to, the functions of an independent child trafficking guardian assigned to them. Where a guardian has been assigned to the young person by the Scottish Guardianship Service, they should be invited to age assessment meetings with young person and where the guardian can attend, they may undertake the role of appropriate adult.

In advance of the interview, the social workers should brief the appropriate adult to ensure understanding of their role, the social workers' planned approach to the interview and any pertinent considerations relating to the interviewee. Subject to the

preference of the young person, the social workers should also facilitate a private meeting of the appropriate adult and young person, with the interpreter where there is one involved, prior to the initial interview (and subsequent meetings where useful to do so).

## Conducting an age assessment meeting

When conducting age assessment meetings with young people, the following, where applicable, will need to be undertaken:

- introduce each individual in the room to ensure the young person is clear on who is present and their role at the meeting
- take time to establish a rapport with the age disputed person before the start of the meeting, for example by means of a short informal conversation with them on a topic unrelated to the assessment of their age, as this helps them to relax, increases the chances that they will be open and assists with disclosure of relevant information to the social workers
- set the framework in which the young person's appropriate adult may ask questions and make comments
- explain the age assessment process to the young person and the purpose of the meeting, including that they can:
  - speak to their appropriate adult with the social workers present or not present at any time
  - say if they don't understand a question
  - say if they need a break
- confirm at the start that the young person is content to be interviewed in the language or dialect for which the interview has been booked (if this has not already been done) and that they understand the interpreter – refer to [Use of interpreters](#) for further information
- check that the young person is not hungry, thirsty or in any other physical or mental discomfort or distress during the course of the meeting (but keep in mind that the meeting itself may cause distress)
- provide them with a copy of the Age Assessment Privacy Notice and remind them of its contents (the privacy notice should have already been issued and explained to them by the local authority)
- explain the principal outcomes of the age assessment, and that the outcome of their assessment will be set out in writing, including information about how they may challenge the assessment and who can support them with this

## Interview questions and interaction

In addition to the guidance in [Conducting an age assessment meeting](#), if an interview is being conducted, the following will need to be undertaken:

- attempt should be made to build rapport with the young person – this, for example, could be achieved through:
  - letting the age disputed young person choose a chair
  - providing refreshments
  - offering regular breaks

- conducting the interview in a well-lit spacious room
- smiling and expressing acknowledgment of responses throughout the interview
- good listening without becoming judgmental
- giving them the opportunity to voice their opinions
- showing empathy, including having an understanding of other emotions and thoughts, while remaining neutral and avoid making a judgement
- it is important that a young person understands the importance of the questions asked of them and the implications of their responses
- the young person's full participation with the interview is highly important – this can be assisted through starting the information collection section of the interview with an initial free recall, followed by open-ended questions based on what the interviewee said in the free recall
- where information is being requested about a particular event, the person should be encouraged to provide as much about the event in question as possible, with interruption kept to a minimum
- open-ended questions (a question that does not expect a specific and narrow answer) should be used as much as possible – for example, “please tell us about / explain / describe”
- take into account that young people do not often provide as much detail as adults in recalling experiences and may often express their fears differently from older individuals
- evidence provided by a young person must be considered in the light of their degree of mental development and maturity
- evidence provided by a young person must be considered in light of any available knowledge of their personal, family, cultural and educational background
- it is important to understand that it is possible that the young person has suffered trauma (although it may be undiagnosed) and how their behaviour may change as a consequence (particularly whilst covering potentially difficult topics such as names, places, other individuals), and how these behaviours should be responded to – for example, social workers should:
  - communicate acceptance of managing the difficult emotions that may emerge during interview
  - assist in regulating distress by helping the young person feel safe and grounded in the interview room
  - take into account how autobiographical memory narration can be impacted upon by trauma
- enquire whether the young person is aware of any sources that the social worker can consult to support the information they have provided – for example, named witnesses and photos (great care should be exercised when deciding whether it is appropriate to contact witnesses and initiating contact, and the guidance in [Contacting countries of origin](#) should be referred to when deciding whether to contact witnesses in countries of origin)
- social workers must proactively identify, pursue, and consider objective factors and information that may be relevant to the assessment of age
- social workers must take account of any information provided, including from other family members and other accompanying adults

- social workers must take account of factors which may affect consideration of the assessed person's credibility

Upon conclusion of the interview the social workers must review the interview and assess if an additional interview is required before a decision on age can be made. Although in some cases the process can be concluded quickly, such as where it quickly becomes obvious that there is no longer reasonable doubt that the young person is the age they claim (or are claimed) to be, many age assessments will take several interviews to complete. The social workers' notes should be retained in the young person's SharePoint case file.

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# Age assessment decision

This section provides guidance for the National Age Assessment Board (NAAB) on making the age assessment decision and how the outcome of the age assessment will be set out in writing.

Once the social workers have sufficient information to make a provisional decision on age, they should proceed to making the decision. The standard of proof for an age assessment conducted under sections 50 and 51 of the [Nationality and Borders Act 2022](#) is the balance of probabilities.

## Minded-to meeting

Once a provisional decision on age has been made based on the information available to the NAAB, the NAAB social workers should proceed to deciding whether it is appropriate to arrange a minded-to meeting. The minded-to meeting, when conducted, comes after the conclusion of the interview stage and ahead of the decision service meeting. The purpose of the minded-to meeting is to explain the provisional decision to the young person, provide them with an opportunity to present additional information relevant to the assessment of age, identify any incorrect information and respond to any adverse points upon which the provisional decision on age is based, ahead of finalisation of that decision.

Whether a minded-to meeting is required is determined by the individual circumstances. For example, a minded-to meeting would not normally be required where:

- the young person's claimed age has been accepted without any need for significant clarification
- the decision was based on definitive documentary evidence of age

For guidance on arranging age assessment meetings, refer to [Organising and conducting age assessment meetings](#). If a minded-to meeting is conducted, the NAAB must undertake the following actions:

- the findings on age must be reviewed in light of any relevant, additional information provided
- the social workers notes must be uploaded onto the young person's casefile in SharePoint
- the workflow management system must be updated

Where a minded-to meeting is not assessed to be required, social workers must ensure that the young person has been given the opportunity to present additional information relevant to the assessment of age or to identify any incorrect information, at the end of the final age assessment interview. The NAAB must ensure that the decision to not have a minded-to meeting and the reasons for this decision are clearly recorded on the young person's age assessment record on the young

person's casefile in SharePoint and that the workflow management system is updated.

## Age assessment report

Once enough information has been collected to enable a decision on age to be made, the social workers should proceed to making the decision. This decision, which will be set out in an age assessment report, will include:

- a detailed, holistic analysis of the information, having been assessed in the round
- the age the young person was assessed to be and date of birth
- how the decision on age was reached, including why certain evidence was assigned more weight than others

Once the draft report has been completed, it must be subject to a quality assurance process. Firstly, the report must be quality assured by a supervisor within the NAAB. Once cleared by the supervisor, if the young person is being treated as a looked after child, the report must then be sent out to be reviewed by the local authority with a 2 working day deadline for providing any comments via MOVEit (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on Sending information securely). If comments are provided by the local authority, these must be considered by the NAAB. If the local authority comments require amendments to the report, the local authority should be given another opportunity to review it after the amendments have been made. Any comments on the report and evidence provided by the local authority must be saved in SharePoint.

If subsequent significant amendments are made to the report, the report will need to be reviewed by the NAAB supervisor again. A significant amendment, for example, would include an amendment to the outcome.

## Updating NAAB records on SharePoint

Once the age assessment interview and minded-to meeting stages have been completed, the NAAB must update their record systems – including:

- update the workflow management system
- upload onto the young person's SharePoint casefile the age assessment report, social worker interview notes and other documents which were taken account of when making the decision on age

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# Decision on age

This section provides guidance for the National Age Assessment Board (NAAB) on the process for preparing for and delivering the decision on age.

## Service of the decision on age

Once the decision on age has been finalised, a decision service meeting must be arranged by the NAAB with the young person, interpreter and appropriate adult. The purpose of this meeting is to:

- issue the decision on age and provide the young person with a copy of the age assessment report
- explain in a manner which is sensitive to their wellbeing and is easily understood the decision on age, the implications of this decision and how they can go about challenging that decision in the event they disagree with the outcome, including the process for submitting new evidence and on the judicial review process

Guidance on arranging age assessment meetings, including decision service meetings, refer to [Organising and conducting age assessment meetings](#).

## Updating relevant parties of the assessment outcome

Immediately after the age assessment report has been served on the young person, a copy of the report must be shared by the NAAB with the following parties:

- local authority (if the decision is relevant to whether or how the local authority exercises its functions under children's legislation in relation to the young person)
- the age disputed person's legal representative (if applicable and if the young person has consented to the report being shared with them)

If a local authority has exercised or is considering exercising functions under relevant children's legislation, the local authority would be expected to notify the following parties (as applicable) of the outcome of the age assessment:

- a guardian provided by the Scottish Guardianship Service or the Northern Ireland Independent Guardian Service, including providing a copy of the age assessment report (for those living in Scotland and Northern Ireland)
- foster carer
- school (if assessed to be a different age than claimed)

If the young person is attending school and has been assessed to be a different age than claimed, it is important for safeguarding purposes (of the age disputed person as well as other young people at the school) that the school is notified of the outcome of the assessment, and to enable the school to review its provision of educational services to the young person. If the young person is looked after by a

local authority, the authority can be expected to notify the school. But if they are accompanied, the NAAB will be responsible for notifying the school and the local authority of the decision on age. This would entail notifying them that the NAAB has conducted an assessment of age, the date of the assessment and the outcome of the assessment, including the age and date of birth assigned.

Once the age assessment process has been concluded, the NAAB must ensure that the young person's casefile in SharePoint and that the workflow management system is updated.

## Updating immigration record systems and other immigration paperwork

The decision on age is relevant to the Home Office's immigration decision making functions and has implications for local authority funding provided by the Home Office for the provision of support to Looked After Children. It is therefore important that the NAAB:

- create a 'NAAB Age Assessment Concluded' Admin Event in CID
- close the 'Age Dispute – Referred to NAAB for Assessment' special condition flag in CID
- emails the immigration or asylum decision making unit to:
  - notify them that a Merton compliant age assessment was conducted by the NAAB, the date of birth the young person was assessed to be and when the decision on age was made
  - request that the remaining updates are made to CID / ATLAS to take into account the outcome

The age assessment report must not be shared with Home Office immigration or asylum decision making units and must not be uploaded onto CID or Atlas. For further information on updating CID and ATLAS, refer to the Assessing Age guidance.

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# Implications of an age assessment

This section provides guidance on the implications of an age assessment conducted by the National Age Assessment Board (NAAB) or a local authority.

Whether an age assessment is binding on the Home Office when exercising immigration functions and on local authorities when exercising functions under relevant children's legislation is determined by whether the assessment is conducted by the NAAB or by a local authority and, in the event the NAAB conducted the assessment, whether the assessment was commissioned by the Home Office or by a local authority.

## NAAB age assessments conducted following a referral by a local authority

Age assessments conducted by the NAAB (under section 50(1) or 50(3)(a)) following a referral from a local authority, are binding on:

- a local authority that has exercised or may exercise functions under relevant children's legislation in relation to the young person's whose age has been assessed and where the local authority is aware of the assessment
- the Home Office, including immigration officers when exercising immigration functions

While the assessment is binding in these circumstances, an age assessment conducted by the NAAB would no longer be binding on the local authority and Home Office if it is overturned by way of judicial review, or if a new assessment decision is taken because significant new evidence has come to light. For information on judicial reviews of NAAB decisions on age, refer to [Judicial reviews](#) and for information on the process for conducting another age assessment, refer to [New information following an age assessment decision](#).

## Local authority age assessments

Age assessments conducted by a local authority are not binding in the same manner as assessments conducted by the NAAB. Local authorities rely on their own Merton compliant age assessments when deciding whether or how to exercise any of their functions under relevant children's legislation. The assessment is also relevant to the age the young people are treated by the Home Office for the purposes of exercising immigration functions.

When making decisions on age, the Home Office will consider Merton compliant age assessments conducted by local authorities alongside any other relevant evidence of age and make an overall decision in the round. Though the Home Office is not required to monitor local authorities in the exercise of their conduct of age assessments, there is an independent obligation on the Home Office to evaluate the evidence and consider whether the local authority age assessment is case law compliant. It is Home Office policy to give prominence to a local authority age

assessment which is Merton compliant and it is likely that the local authority's decision will be decisive in most cases. Refer to the Assessing Age guidance for information on the Home Office's policy on taking into account local authority age assessments.

## **NAAB age assessments conducted following a referral by the Home Office**

Age assessments conducted by the NAAB (under section 51) following a referral from the Home Office, are binding on the Home Office, including immigration officers when exercising immigration functions. This includes the age they will be considered to be for the purposes of support under sections 95 and 4 of the [Immigration and Asylum Act 1999](#). An age assessment conducted by the NAAB in this circumstance is not binding on a local authority that has exercised or may exercise functions under relevant children's legislation in relation to the young person.

It is however important that when an age assessment is conducted by the NAAB under section 51 of the Nationality and Borders Act 2022 and a local authority has exercised or may exercise functions under relevant children's legislation in relation to the young person, the NAAB must send a copy of the age assessment report by MOVEit to the local authority for their consideration (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on Sending information securely)

While a NAAB age assessment conducted under section 51 of the 2002 Act is binding on the Home Office in these circumstances, the age assessment conducted by the NAAB would no longer be binding if it is overturned by way of judicial review, or if a new assessment decision is taken because significant new evidence has come to light. For information on judicial reviews of NAAB decisions on age, refer to [Legal challenges - Judicial reviews](#) and for information on the process for conducting another age assessment, refer to [New information following an age assessment decision](#).

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# New information following an age assessment decision

This section provides guidance on the process for assessing new evidence that may come to light after an age assessment has been made by the National Age Assessment Board (NAAB). This guidance does not apply to age assessments conducted by local authorities.

The age assessment process provides those subject to an age assessment with a number of opportunities to disclose relevant information to support the assessment of their age. However, new evidence may come to the attention of the NAAB after the young person's age has been assessed by the NAAB.

While section 56 of the [Nationality and Borders Act 2022](#) (2022 Act) sets out the framework for consideration of new information following an age assessment decision by a local authority or the NAAB (under sections 50 and 51 of the 2022 Act), including after an appeal process has been concluded, this section has not been commenced at the time of publishing this guidance document. Pending the commencement of section 56, the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023, specifies a transitional framework for the consideration of new information by the NAAB.

When new information is submitted a decision needs to be made on whether the new information is significant new evidence, and if it is decided that it is, a further age assessment must be conducted on the young person. Evidence will be considered significant only where there is a realistic prospect of that information leading to the age disputed person being assessed as an age different to that determined in the previous age assessment. There is no time limit within which new information must be submitted to the NAAB in order for the NAAB to consider that information.

If the new information is not assessed to be significant new evidence, this decision and the reasons for this decision should be set out in writing and issued to:

- the young person
- local authority (if the decision is relevant to whether or how the local authority exercises its functions under children's legislation in relation to the young person)
- the age disputed person's legal representative

When the new information is significant new evidence and, therefore, a further age assessment is required, the assessment does not need to revisit issues covered in the first age assessment, if this is assessed to be unnecessary by the NAAB. This means that a subsequent age assessment does not necessarily need to repeat the processes undertaken in the previous age assessment but would instead need to reconsider the previous age assessment in light of the new evidence that has been

presented. For example, based on the individual circumstances, this could mean that additional age assessment interviews may not need to be conducted.

If a local authority has exercised or may exercise functions under relevant children's legislation in relation to the young person, the local authority must be given an opportunity to review the age assessment report, as would be the case for the first age assessment conducted by the NAAB.

If a further age assessment is conducted, this assessment shall be treated, for the purposes of the other age assessment legislation under part 4 of the 2022 Act and the processes within this guidance document, in the same way as if it was carried out as a first age assessment (an assessment conducted by the NAAB under sections 50 and 51 of the 2022 Act or by a local authority under section 50). For example, if the age assessment was conducted following a referral from a local authority (under section 50(1) or 50(3)(a)), the assessment would be binding on a local authority where it has exercised or may exercise functions under relevant children's legislation in relation to the young person whose age has been assessed, and the local authority is aware of the assessment.

Refer to [Implications of an age assessment](#) for further information.

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# Legal challenges - judicial reviews

This section provides guidance to the National Age Assessment Board (NAAB) on the judicial review process.

A judicial review is a legal challenge where an individual asks the High Court or the Upper Tribunal to review the lawfulness of a decision. Age assessment decisions taken by the National Age Assessment Board (NAAB) are presently subject to the judicial review process.

The [Nationality and Borders Act 2022](#) provides for a new statutory right of appeal to the First Tier Tribunal, and these appeals will eventually replace Judicial Review as the means to challenge a decision of the NAAB. However, in the interim, the NAAB should familiarise themselves with the judicial review process to ensure that they are able to properly prepare for and contribute to litigation handling.

Different judicial systems operate in England and Wales, Scotland, and Northern Ireland. Therefore, there are differences in the judicial review process dependent upon from where within the United Kingdom (UK) a claim is brought. It is possible that an individual who has been assessed as an adult by the NAAB in one part of the UK is subsequently dispersed to another part, prior to seeking to legally challenge the decision on their age, therefore any litigation brought will be under the process in place in the jurisdiction they have been dispersed to.

More detailed guidance is available at the following links;

- [Judicial review guidance - England and Wales.](#)
- [Judicial review guidance - Scotland](#)
- [Judicial review guidance - Northern Ireland](#)

The process detailed below is that which operates in England and Wales. If you are in receipt of a judicial review that was lodged in either Scotland or Northern Ireland, you should refer to the main guidance for those jurisdictions, linked above.

## Pre-action protocol

When an individual wishes to challenge a decision of the NAAB they should write first to the NAAB asking for the decision to be reviewed. This is called the pre-action protocol (PAP) letter or is sometimes referred to as a letter before claim.

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### **Official – sensitive: start of section**

The information in this section has been removed as it is restricted for internal Home Office use.

The information in this section has been removed as it is restricted for internal Home Office use.

## **Official – sensitive: end of section**

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It is important that however a PAP letter is received it should be considered appropriately. Therefore, if a PAP letter is received directly by the NAAB, you should ensure that it is forwarded promptly to the above email address to be allocated to a caseworker.

PAP letters and the responses to them should be carefully considered. This is a good opportunity to prevent judicial review proceedings being brought at all, either by re-assessing the individual's age (where appropriate) or by setting out clearly the reasons for maintaining the existing assessment outcome. You may be asked to provide input into the PAP response and should provide all relevant information and detail promptly to allow for the PAP response to be drafted within timescales.

There will normally be a 14-day deadline to respond to a PAP letter, however those representing the individual may seek a shorter response time if they believe the matter to be urgent. If they believe the matter to be extremely urgent they may decide to proceed directly to lodging a judicial review without engaging with the PAP process. However this may have consequences for the settlement of costs in the event the judicial review is allowed, but the Secretary of State (Home Office) was not provided with an opportunity to settle the matter at the pre-action stage.

If our response to the PAP letter does not prevent a judicial review, it will be necessary to ensure that the Government Legal Department (GLD), formerly called the Treasury Solicitor, are sent a copy of any PAP responses as these will need to be referred to in our response to the judicial review, known as the Acknowledgment of Service (AoS).

## **Judicial Review Process**

If an individual wants a judicial review of an age assessment decision, they must first apply to the High Court for permission setting out their reasons for challenging the decision. This should be done as soon as possible, but normally no longer than 3 months from the date of the decision giving rise to the claim.

Once a judicial review claim is lodged in respect of an age assessment decision of the NAAB the JR claim will be allocated to a litigation caseworker who will be responsible for case handling for the Home Office and liaison with our lawyers in the GLD. It is likely that the caseworker assigned the case will need input from the NAAB about the assessment undertaken as well as advice and guidance on responding to the specific challenges to the decision.

The litigation caseworker will form a preliminary view on the merits and defensibility of the legal challenge and communicate this in writing to the GLD to seek their views. Where GLD agree that the matter is defensible they will draft an AoS setting out the

Home Office's position in respect of the challenge. The AoS allows the Home Office to confirm whether to accept the claim detailed in the judicial review or whether to contest the claim and must be filed within 21 days of the filing of the JR. If the Home Office contests the claim, the AoS will include the summary grounds of defence (SG) and any evidence the Home Office wishes to rely on as to why the claim should not be granted permission to proceed. You may be asked by either GLD or the litigation caseworker to review and provide clearance for the AOS or SGs.

Once the court receives these documents, a judge will look at the papers and decide whether or not to grant permission. The test for granting permission is whether the judge thinks the claim is arguable. This is a low threshold and it should not be inferred that every case granted permission is likely to be successful overall. Where permission is refused at the paper stage the individual refused permission may seek to renew to an oral permission stage where arguments on the merits of the grounds may be made verbally.

## Interim orders

The applicant or claimant for judicial review may apply for an interim order prior to the consideration of permission by the court. The application for an interim order is a request that the court mandates the Home Office to either take action, or refrain from taking action pending the outcome of the judicial review.

If you are informed by either the litigation caseworker or GLD that an interim order has been made as part of a legal challenge to a decision of the NAAB, you need to ensure that all steps are taken to comply with the terms of the order.

It is vital that action is taken promptly to ensure compliance with the order, failure to do so can result in a breach of the order which may cause further proceedings in which the Secretary of State may be found to be in contempt of court. The consequences of any such finding would be extremely serious.

If an interim order is granted requiring that an individual is accepted as a child pending the conclusion of litigation, this will need to be communicated to the relevant local authority so that they can provide services on an interim basis under the relevant children's legislation. You should always ensure that the local authority understands that the view of the NAAB remains that the individual is an adult pending a final decision of the court, so that any safeguarding risks can be managed appropriately for the duration of legal proceedings.

## Disclosure

Disclosure is an extremely important part of the judicial review process and the Home Office has a duty to ensure they disclose all relevant information. This includes information that may be detrimental to the Home Office's position.

The guidance by GLD provides advice on disclosure in judicial review proceedings. GLD or the litigation caseworker will contact you to discuss what information needs to be disclosed in a particular case. It is important that you conduct a thorough

search of all information held to ensure that nothing is withheld that should have been disclosed. This includes but is not limited to, file notes, electronic records, interview records, internal emails, external emails, information obtained from social media, information obtained from the authorities of other countries, and correspondence relevant to the case. GLD will be able to advise on the limitations of the disclosure exercise and conduct any necessary redaction of confidential data.

## Substantive hearing

Once a case is granted permission to proceed it will go on to a substantive hearing, unless settled or withdrawn. Occasionally there may be a pre-hearing known as a case management conference, or an interim relief hearing to take a view on an urgent element of the judicial review.

If permission is granted, the defendant must submit detailed grounds of defence within a specified time frame (usually 35 days from the date of permission grant). Nearer the hearing date counsel for both sides will submit written arguments as to why the claim should either be allowed (on behalf of the claimant) or dismissed (on behalf of the Home Office). These are called skeleton arguments. If it is necessary for the NAAB social worker at this stage to provide a witness statement, GLD will advise you on this, including explaining in detail what is required.

The case will then have a substantive court hearing at which oral arguments are made by both the claimant and defendant. The court will then deliver a final judgment, which will either allow the claim and provide a form of relief in a court order, or dismiss the claim upholding the Home Office's position.

## Settling cases

A judicial review claim can be settled at any point before a substantive hearing, if the Home Office and the claimant are able to come to an agreement on resolving the matter under dispute.

You may receive advice from GLD that a JR case cannot be defended and should be settled. Where this means that the NAAB would be obliged to accept the claimed age of the individual bringing the legal challenge, you should discuss the matter with your NAAB supervisor to seek their views and obtain agreement to settlement. It may also be necessary to provide the relevant local authority with an opportunity to contribute any views. Decision makers will need to assess whether this is necessary on a case-by-case basis, but relevant factors which may be considered are:

- the extent to which the local authority has been involved in proceedings up until the point at which it is decided to settle the claim
- the potential impact settlement of a claim may have on a local authority's ability to provide services under relevant children's legislation

If the decision to accept the claimed age means that they are being treated as an unaccompanied child, they should be immediately referred into the care of local authority children's services.



For more detail on the process for settlement, see the main guidance for the relevant jurisdiction in which the judicial review was lodged.

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# Sharing information

This section provides guidance on how information relevant to the assessment process must be processed by the National Age Assessment Board (NAAB).

The NAAB must ensure that personal data is processed (collected, used, stored, combined and deleted) in accordance with relevant data protection legislation, and that those providing the information to the NAAB and those whose information is being shared, are confident that the information is handled in accordance with applicable data protection legislation. The relevant instruments principally include:

- [UK General Data Protection Regulation](#)
- [Data Protection Act 2018](#)
- [Human Rights Act 1998](#)

For guidance on the processes to follow when sharing personal data with external organisations or individuals within the UK on a routine and systematic, or ad-hoc basis, refer to [Guidance Personal Data Sharing Guidance – general data processing](#).

Sensitive data collected by the NAAB during the age assessment process will be securely stored on SharePoint, a Microsoft 365 document storage and management application.

Data exchanged between the NAAB and local authorities will be undertaken via MOVEit (or, if MOVEit is not an option, shared in a manner which is in accordance with the guidance on sending information securely). MOVEit is an online file-sharing service that allows users to share data with other government departments, non-departmental public bodies and external organisations in a secure environment.

All access to SharePoint and MOVEit is controlled by user permissions and only authorised members of staff will have access to the data. Those parts of the Home Office responsible for making decisions on immigration and asylum applications will not have access to this information.

## Sharing personal data with the NAAB by local authorities

When requesting information from local authorities, the NAAB must take into account local authorities' role in complying with data protection legislation. For the purposes of age assessment, information sharing by the local authorities would either fall within an express statutory power or an implied power to share information. The powers relevant to sharing information between local authorities and the NAAB include:

- Section 50(3)(b) of the [Nationality and Borders Act 2022](#) (2022 Act) provides a mandatory statutory power requiring that in cases where a local authority conducts an age assessment themselves, they must inform the Secretary of State (Home Office) of the results of its assessment

- Section 50(3)(c) of the 2022 Act provides a mandatory statutory power requiring that in cases where a local authority is satisfied the young person is the age they claim to be and considers that an age assessment is not required, the local authority must notify the Home Office of this in writing
- Section 50(4) of the 2022 Act provides a mandatory statutory power requiring local authorities to provide the Home Office, upon its request, with such evidence as the Home Office reasonably requires for the Home Office to consider the local authority's decision on age under Section 50(3)(b) or (c) of the 2022 Act
- Section 50(5) of the 2022 Act provides a mandatory statutory power requiring local authorities to provide any assistance that the NAAB reasonably requires from the local authority for the purposes of conducting that assessment, following a referral from the authority for an age assessment to be conducted
- Section 20 of the [Immigration and Asylum Act 1999](#) (1999 Act), as amended by section 55 of the Immigration Act 2016, provides a permissive statutory power allowing public authorities, including local authorities, to supply information to the Home Office for immigration purposes, specifically information relevant to the administration of immigration control under the Immigration Acts, and anything else that is done in connection with the exercise of a function under any of the Immigration Acts, which includes the 2022 Act ('Permissive' means that the public authority can share data with the Home Office but is not compelled to do so)
- personal data is processed under the legal basis of Article 6.1(e), for general personal data, and Article 9.2(g) for special category data of the UK GDPR

It should be noted that the data sharing powers under section 50 of the 2022 Act do not apply to NAAB age assessments conducted upon referral from the Home Office under section 51 of the 2022 Act, unless the NAAB is conducting the age assessment after a local authority has already made an age assessment decision under section 50. Where information is requested from the local authority to help inform the NAAB's assessment of age, but the data sharing powers under section 50 of the 2022 Act do not apply, the relevant data sharing power is section 20 of the 1999 Act.

The young person's consent is not required for the local authority to share information with the NAAB, if the sharing of this information is required under one of the mandatory statutory powers under section 50. However, if a young person expresses concerns about the disclosure and, if applicable, use of this information, the local authority will normally explore and consider these concerns.

## Using information collected by the NAAB for the purposes of considering eligibility for leave to enter or remain

Decisions on age made by the NAAB are relevant to the asylum and immigration process. For example, it is necessary to establish the age of an individual in order to determine whether the asylum claim should be progressed under the guidance applicable to children's claims, or whether it should be progressed as an adult claim. The age of an individual will also have a bearing on the assessment of potential risk on return under the refugee convention or European Convention on Human Rights

(ECHR), as well as potential eligibility for discretionary leave to remain in the event that entitlement for leave to remain under the refugee convention or ECHR is not established. It is therefore essential that the applicable asylum or immigration decision making unit is provided with prompt notification that an assessment of age will be conducted by the NAAB, the decision on age, and the date of that decision.

However, a significant amount of the information collected by the NAAB from local authorities, other organisations and individuals who play a role in the young person's life, as part of the age assessment process, will be confidential and provided to the NAAB for the sole purpose of informing the decision on age. Relevant information will also be subject to data protection legislation and it is important that any information provided to the NAAB is handled in a manner compatible with this legislation.

Any inappropriate use of information shared with the Home Office by local authorities presents a risk of undermining confidence in the NAAB, may also have legal consequences, and could harm the relationship the young person has with the local authority who provided the information, which in turn may make the vital safeguarding functions undertaken by the local authority harder to accomplish.

Therefore, decisions made by the NAAB to share such information with Home Office teams outside of the NAAB beyond that which is necessary to complete their official functions in response to that decision on age, must be taken very carefully.

Information provided by local authorities to inform the decision on age, as well as information provided to the NAAB by the individual undergoing assessment or uncovered as part of any research undertaken by the NAAB is not to be shared with, or stored in manner which it can be accessed by, those parts of the Home Office responsible for making a decision on any asylum or immigration application made by that individual, unless either:

- the disclosure of the information is specified within this guidance document, or
- there are concerns over the welfare of the age disputed person and the information is essential for necessary safeguarding action by immigration and asylum decision makers
- the legal representatives of the individual under assessment requests that the information is shared and provides written consent from the individual for the information to be used for the purposes of making a decision on an asylum or immigration application

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# National Age Assessment Board social workers

Age assessments conducted by the National Age Assessment Board (NAAB) will be undertaken by social workers. The NAAB social workers:

- are qualified social workers and are registered with one or more of the following social work regulatory bodies: Social Work England, Scottish Social Services Council, Northern Ireland Social Care Council and Social Care Wales
- have a successful track record of post qualification experience in a local authority setting, including experience of working in children services are culturally competent, with experience of working with service users from diverse backgrounds
- have an enhanced DBS certificate

The social workers are expected to:

- undertake robust and fair age assessments
- adopt a child centred and trauma informed approach to working with young people and undertaking assessments
- provide the appropriate statutory response to any child protection or safeguarding concerns that come to light during the age assessment process
- have a working knowledge of age assessing legislation, case law, guidance and good practice in the country they will be conducting age assessments
- maintain up-to-date knowledge of, and apply, legislation, statutory guidance, policy and case law relevant to age assessments and social work practice in the UK
- abide at all times to the highest social work principles
- adhere to the Civil Service code, which sets out the standards of behaviour expected of civil servants
- be aware of, and sensitive to, the impact of culture, religion on how a young person presents, and what impact this may have on the assessment of age
- are expected to adhere to social worker codes of practice in the country or countries in which they are registered

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# The Home Office's age assessment policy

This page provides a brief summary of the Home Office's age assessment policy.

The Home Office's age assessment guidance is located within Assessing age (Migration and Borders guidance platform or [GOV.UK](#)) and can be summarised as follows:

Where clear and credible documentary evidence of age is not available, the Home Office will only treat an individual claiming to be a child as an adult, without further investigation, if two officers (one of at least Chief Immigration Officer or equivalent grade) have separately determined that the individual's physical appearance and demeanour suggests they very strongly significantly over the age of 18.

When there remains doubt over whether the claimant is an adult or child, the Home Office's policy is to give them the benefit of the doubt and treat them as their claimed age for immigration purposes until a further consideration of their age is undertaken, which often entails the conducting of a Merton compliant age assessment. In the case of unaccompanied children, they are referred into the care of local authority children's services, who will decide if they have reasonable doubt that the young person is the age they claim (or are claimed) to be and, where there is reasonable doubt, will proceed to conducting an age assessment or make a referral to the National Age Assessment Board for an age assessment to be conducted.

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# Key contacts and organisations

This page provides information on the key teams and agencies the National Age Assessment Board (NAAB) may interact with.

## Resettlement, Asylum Support and Integration

Resettlement, Asylum Support and Integration's main responsibilities include the dispersal and support of adult asylum seekers and asylum-seeking families, the transfer of unaccompanied asylum seeking children (UASC) through the National Transfer Scheme (NTS), and the operational delivery and policy development of the UK's resettlement and integration offer for refugees.

## Safeguarding Advice and Children's Champion

The Safeguarding Advice and Children's Champion (SACC) is responsible for promoting child safeguarding duties across the Migration and Borders Group, providing monitoring, challenge, advice and support as a 'critical friend' on the development of related strategies, policies, and procedures as well as frontline operational practices. For further information on the SACC, refer to Safeguarding Advice and Children's Champion.

## National asylum intake unit

The National Asylum Intake Unit (NAIU) is responsible for locking identity and registering asylum claims through a screening process. Asylum in the UK should be sought at the first available opportunity, on arrival, at a port of entry. Those who have failed to claim on arrival, who enter illegally or whose circumstances have changed since arrival, can lodge a claim at an in-country location. The National Asylum Intake Unit (NAIU) is based across 3 sites (Asylum Intake Unit (AIU) in Croydon, the Kent Intake Unit (KIU) in Dover, and the Midlands Intake Unit (MIU) within the Yarls Wood Immigration Removal Centre), and registers between 60% and 70% of asylum applications. The remainder are registered by Border Force (for example, where a passenger claims asylum on arrival) and Immigration Enforcement (for example, when encountered on operations or from in-country lorry drops).

## Contact details for Home Office asylum decision making units

Asylum Operations has established case working Hubs with responsibility for Unaccompanied (and accompanied) Asylum Seeking Children and young people. Solihull has responsibility for Local Authorities in the Midlands, East of England, the South West of England and Wales. Liverpool has responsibility for Local Authorities in the North of England, Croydon, Kent, Scotland and Northern Ireland. Both Hubs have responsibility for London and South East England Local Authorities. Contact details for enquiries not relating to age assessment or to request any potential fast-tracking of particularly vulnerable children should be sent to the following addresses:

- Liverpool Asylum Admin
- Solihull UASC Enquiries

Enquiries relating to age disputes which do not relate to services provided by the NAAB should be sent to: Homeoffice age disputes inbox.

## Refugee Council's Independent Unaccompanied Asylum Seeking Children Support Service

The role of the Independent Unaccompanied Asylum Seeking Children Support Service (IUSS), is to provide impartial and independent information, advice, guidance, and assistance to UASC to help them understand and navigate the Asylum and looked after children's system effectively.

Further information on the IUSS, including contact details, can be found on the [Refugee Council's website](#).

## Scottish Guardianship Service

In Scotland, the Scottish Guardianship Service is a statutory service that works with children and young people who arrive in Scotland unaccompanied and separated from their families who are seeking asylum or who have been trafficked.

Guardians support young people by:

- helping them navigate the immigration and welfare processes
- helping them to feel supported and empowered throughout the asylum process
- supporting them with their interactions with the Home Office, local authorities and other important agencies

Unaccompanied children in Scotland should be referred to the Scottish Guardianship Service and, in many cases, this will be done by the local authority. Home Office staff should check that this has been done and make a referral if it has not.

Contact details for the Scottish Guardianship Service:

Scottish Guardianship Service  
C/o Scottish Refugee Council  
5 Cadogan Square  
Glasgow  
G2 7PH  
Email: Scottish Guardianship Service  
Telephone: 0141 4458659  
Fax: 0141 2432499

Useful websites:

- [Aberlour](#)
- [Scottish Refugee Council](#)



## Independent Guardian Service in Northern Ireland

In Northern Ireland, the Independent Guardian Service is a statutory service that supports children in Northern Ireland who are victims or suspected victims of human trafficking and children who are separated from their families and their home countries. Barnardo's Northern Ireland are the current providers.

Independent Guardians support young people by:

- providing consistent, independent, support, advice and advocacy for trafficked and unaccompanied migrant children – recognising that they are extremely vulnerable
- helping them navigate the immigration, legal and welfare processes
- helping them navigate a number of unfamiliar processes to reach durable solutions about their future
- strengthening the safeguarding arrangements to such children and specifically to assist, represent, support and empower young people in the immigration and asylum process
- actively seeking the child's views and wishes regarding all aspects of their lives, supporting and ensuring their voice is heard within their interactions with the Home Office and other important agencies

Unaccompanied children in Northern Ireland should be referred to the Independent Guardian Service and, in many cases, this will be done by the Health and Social Care Trust. Home Office staff should check that this has been done and make a referral if it has not.

Contact details for the Northern Ireland Independent Guardian Service:

Barnardo's Northern Ireland  
Independent Guardian Service  
230c Belmont Road  
Belfast,  
BT4 2AW

Tel: 028 90 658105 or 028 9067 2366

## Independent Child Trafficking Guardians

[Section 48 of the Modern Slavery Act 2015](#) makes provision for Independent Child Trafficking Guardians (ICTGs) in England and Wales. The role of ICTGs is to provide specialist independent support for trafficked children, in addition to existing statutory service provision, and to advocate on behalf of the child to ensure that their best interests are reflected in decisions made by public authorities. ICTGs are currently available in two thirds of local authorities in England and Wales.

For further information on the ICTGs refer to [Interim guidance for Independent Child Trafficking Guardians](#).

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# Glossary

This page contains a glossary of terms used in this guidance.

Term	Definition
Accompanied child	<p>Is a child who requires leave to enter or remain in the United Kingdom (whether or not such leave has been given) and either:</p> <ul style="list-style-type: none"><li>• forms part of a family group</li><li>• is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement</li></ul>
Accompanied asylum seeking child (AASC)	<p>An AASC is a child who is applying for asylum in their own right and either:</p> <ul style="list-style-type: none"><li>• forms part of a family group</li><li>• is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement</li></ul>
ADCS (The Association of Directors of Children's Services Ltd)	<p>ADCS is the national leadership association in England for statutory directors of children's services and their senior management teams. ADCS members hold leadership roles in children's services departments in local authorities in England. They specialise in developing, commissioning and leading the delivery of services to children, young people and their families, including education, health, youth, early years and social care services.</p>
Age disputed person	<p>An individual who requires leave to enter or remain in the United Kingdom (whether or not such leave has been given), and in relation to whom a local authority, a public authority specified in regulations under section 50(1)(b) of the <a href="#">Nationality and Borders Act 2022</a>, or the Home Office, has insufficient evidence to be sure of their age.</p>

Term	Definition
Atlas	Atlas is one of the main case working and operational databases used throughout the Home Office to record personal details of foreign nationals who pass through the immigration system for any reason.
Child	An individual under the age of 18 years (this is defined in legislation relating to children such as <a href="#">section 105 of the Children Act 1989</a> , section 2 (2) of the Children (Northern Ireland) Order 1995 and <a href="#">section 55 of the Borders, Citizenship and Immigration Act 2009</a> ).
Case information database	The Case Information Database is one of the main case working and operational databases used throughout the Home Office to record personal details of foreign nationals who pass through the immigration system for any reason.
Independent Guardian (Northern Ireland Independent Guardian Service)	Section 21 of the <a href="#">Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015</a> established accessibility for unaccompanied children and child victims or potential child victims of Human trafficking and Modern Slavery to the support of an Independent Guardian
Local authority	<ul style="list-style-type: none"> <li>• a local authority within England and Wales within the meaning of the Children Act 1989)</li> <li>• a council constituted under section 2 of the Local Government etc (Scotland) Act 1994</li> <li>• a Health and Social Care Trust in Northern Ireland established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991</li> </ul>
Merton compliant	An age assessment which adheres to the minimum standards set out in <a href="#">B v London Borough of Merton [2003] EWHC 1689 (Admin)</a> and further case law.
MOVEit	MOVEit is an online file-sharing service that allows users to share data with other government departments, non-

Term	Definition
	departmental public bodies and external organisations in a completely secure environment. All access to MOVEit is controlled by user permissions that will ensure users are only able to see data they are permitted to see.
National Age Assessment Board	The NAAB is a decision-making function in the Home Office, established through sections 50 and 51 of the 2022 Act, which primarily consists of social workers and has responsibility for conducting age assessments upon referral from a local authority or the Secretary of State.
Relevant children’s legislation	<p>As defined under section 49(3) of the 2022 Act:</p> <ul style="list-style-type: none"> <li>• in relation to a local authority in England, any provision of or made under Part 3, 4 or 5 of the Children Act 1989 (support for children and families; care and supervision; protection of children)</li> <li>• in relation to a local authority in Wales, Scotland or Northern Ireland, any statutory provision that confers a corresponding function on such an authority</li> </ul>
Secretary of State	Refers to Secretary of State for the Home Department and is sometimes referred to as the Home Office within this guidance document.
SharePoint	SharePoint Electronic & Document Record Management Solution (EDRMS) is a Microsoft 365 document storage and management application, which will be used by the NAAB to securely store sensitive information and documents. All access to SharePoint is controlled by user permissions that will ensure users are only able to see data they are permitted to see; this includes ensuring those outside the NAAB will not have access to NAAB records on SharePoint.
Unaccompanied child	Is a child who:

Term	Definition
	<ul style="list-style-type: none"> <li>requires leave to enter or remain in the United Kingdom (whether or not such leave has been given)</li> <li>is separated from both parents and is not being cared for by an adult who, in law or by custom, has responsibility to do so</li> </ul>
Unaccompanied asylum-seeking child (UASC)	<p>Is a child who is:</p> <ul style="list-style-type: none"> <li>applying for asylum in their own right</li> <li>separated from both parents and is not being cared for by an adult who, in law or by custom, has responsibility to do so</li> </ul>
Independent Child Trafficking Guardian (ICTG)	<p>Section 48 of the Modern Slavery Act 2015 makes provision for ICTGs in England and Wales. The role of ICTGs is to provide specialist independent support for trafficked children, in addition to existing statutory service provision, and to advocate on behalf of the child to ensure that their best interests are reflected in decisions made by public authorities. ICTGs are currently available in two thirds of local authorities in England and Wales.</p>
Workflow management system	<p>This is an Excel spreadsheet on SharePoint used by the NAAB to manage workflow</p>
Young person	<p>Refers to an age disputed person (see definition for an age disputed person)</p>

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