



Home Office

# Assessing age

Version 1.0

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# About this guidance

This guidance sets out the policy and procedures that must be followed 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.

Specifically, this guidance provides information on:

- the circumstances in which it is appropriate to dispute an asylum seekers claimed age
- how an age assessment must be conducted
- sharing information with local authorities
- handling age dispute issues during the end to end process, including substantive asylum interviews, refusal letters and appeals

This guidance must be read in conjunction with Children's asylum claims.

## Intended audience

This instruction is intended for Home Office staff dealing with individuals whose age is in doubt and there is no reliable documentary evidence to support their claimed age.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email Asylum Policy.

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 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 **26 February 2018**

## Changes from last version of this guidance

Guidance placed into new template, reviewed and updated, including links and references, case law and joint working.

### Related content

[Contents](#)

# Background

A decision needs to be taken about an asylum seeker's age where all the following criteria are met:

- their claimed age is doubted by the Home Office
- they claim to be a child but are suspected to be an adult or they claim to be an adult but are suspected to be a child
- there is little or no reliable supporting evidence of the claimed age

This is to ensure the individual is treated age-appropriately, that they receive the necessary services and support, and is important for safeguarding children in the UK care system. Many individuals without documentation are clearly children, some of whom may claim to be adults, whilst others are clearly adults claiming to be children. In other cases, however, the position is more doubtful and a **very** careful assessment of the individual's age is required, with the person provisionally treated as a child until a decision on their age is made pending the outcome of the assessment.

All accessible sources of relevant information and evidence must be considered, since no single assessment technique, or combination of techniques, is likely to determine the individual's age with precision.

## **Related content**

[Contents](#)

# Relevant legislation

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

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

[Section 55 of the Borders, Citizenship and Immigration Act 2009](#) 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. 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.

Those dealing with asylum claims from children, or from those who are afforded the benefit of the doubt and treated as children until further assessment of their age has been completed, must ensure that they are familiar with the statutory guidance under section 55, [Every child matters - change for children](#). The guidance sets out the main principles to take into account. For example, the guidance states the Home Office must act in accordance with the following principles:

- every child matters, even if they are subject to immigration control
- the best interests of the child will be a primary consideration, but not the only consideration, when making decisions affecting children
- ethnic identity, language, religion, faith, gender and disability are considered when working with a child and their family
- children must be consulted and the wishes and feelings of children considered, wherever practicable, when decisions affecting them are made - where parents and carers are present, they will have primary responsibility for representing the child's concerns
- children must have their applications dealt with in a way that minimises the uncertainty that they may experience

There are 5 main ways in which the Home Office gives effect to this duty:

- staff must be constantly alert to potential indicators of abuse or neglect
- staff must be alert to risks which abusers may pose to children
- staff must be ready and able to share any relevant information with other public bodies with a responsibility to safeguard a child
- staff who have face-to-face contact with children must be able to conduct business in a child-sensitive manner, and staff must receive appropriate training for their role
- when making decisions, the duty to take account of the need to safeguard and promote the welfare of that child must be considered

The detailed guidance that follows reflects the section 55 duty. Being familiar with and applying the detailed guidance and the guidance within Children's asylum claims will enable you to demonstrate that the welfare of a claimant, whose age remains doubtful, has been taken account of in the processing of their case.

## Section 51 of the Modern Slavery Act 2015

[Section 51 of the Modern Slavery Act 2015](#) 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 person may be a victim of human trafficking. In such cases, if they are not certain of the person's age but have reasonable grounds to believe that the person may be under 18, they must assume for the purpose of those arrangements, that the person 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.

'Relevant arrangements' means providing assistance and support to people who are, or for whom there are reasonable grounds to believe that they may be, victims of human trafficking as set out in guidance issued by the Secretary of State. For guidance on considering cases which involve modern slavery, refer to Victims of modern slavery.

## Children's legislation in each of the 4 nations of the UK

Local authorities have a duty to provide support for children in need under:

- the [Children Act 1989](#) in England
- the [Social Services and Well-being \(Wales\) Act 2014](#) in Wales
- the [Children \(Scotland\) Act 1995](#) in Scotland
- the [Children \(Northern Ireland\) Order 1995](#) in Northern Ireland

### Related content

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# Initial age assessment

This page tells you, the assessing officer, about the initial procedure you must follow when assessing the age of an asylum seeker or migrant who claims to be a child or who claims to be an adult and their claimed age is doubted by the Home Office.

All asylum seekers and migrants who claim to be children must be asked for documentary evidence to help establish their age when they are first encountered. This is important for:

- establishing their identity
- ensuring that those who are children are provided with appropriate services
- ensuring that adults are not provided with services for which they are not eligible and suitable
- ensuring that children are not unlawfully detained

As a general principle, even where one of the statutory powers to detain is available in a particular case, unaccompanied children must not be detained other than in the very exceptional circumstances specified in paragraph 18B of [schedule 2 to the Immigration Act 1971](#) (see Detention – general guidance). Failure to adhere to the legal powers and policy on detaining children can have very significant consequences, for example:

- if a claimant is detained, but a court later finds, or the Home Office later accepts that the claimant who the Home Office has treated as an adult was a child, even if it reasonably believed that the individual was an adult, any period of detention whilst that person was in fact a child which was not in line with the restrictions in paragraph 18B of [schedule 2 to the Immigration Act 1971](#), will be unlawful and may well result in the Home Office being liable to pay damages ([Court of Appeal in Ali, R \(on the application of\) v The Secretary of State for the Home Department & Anor \[2017\] EWCA Civ 138](#)).
- such a period of detention can have a significant and negative impact on a child's mental or physical health and development
- detention can be extremely frightening for a child, with their perception of what they might experience potentially informed by previous negative experiences of detention suffered by themselves or by people they know, in their country of origin or during their journey to the UK
- if they believe themselves to be a child, the effect of not being believed by the Home Office and, consequently, being detained, can be very stressful and demoralising
- the serious safeguarding risks of detaining unaccompanied children alongside adults

Home Office policy therefore is to apply the age assessment process in such a way as to guard against the detention of children generally, including accidental detention of someone who is believed to be an adult but subsequently found to be a child.

Age assessments cannot always provide the same degree of confidence about treating an individual as an adult or a child as can be provided by reliable documents. To allow for this, the principle of “the benefit of the doubt” is applied. This means that where there is still uncertainty about whether the individual is an adult or a child, the individual should be treated as a child and referred to a local authority, with a request for a Merton compliant age assessment. This would include cases where their physical appearance and demeanour does not very strongly suggest that they are significantly over 18 years of age.

The initial age assessment stage for cases where the claimed age is not accepted is intended to lead to a decision on how an individual should be treated and is divided into **3 possible outcomes** with a number of reasons for arriving at them. Further guidance on how a decision should be made as to which group an individual should fall, is provided later in this section). The three possible outcomes with reasons for arriving at them are as follows:

## **Outcome 1: Decision made to treat the claimant as an adult**

A decision should only be made to treat the claimant as an adult if either:

- a local authority Merton compliant age assessment has been completed by a local authority finding the claimant to be 18 or over, which the Home Office has agreed with after:
  - giving significant weight to the assessment
  - taking all reliable evidence into account (Local authority age assessment already completed)
- two Home Office members of staff, one at least of Chief Immigration Officer or Higher Executive Officer grade, have independently assessed that the claimant is an adult because their physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age ([Physical appearance and demeanour very strongly suggests that they are significantly over 18](#))

## **Outcome 2: Decision made to treat the claimant as a child**

A decision should be made to treat the claimant as a child if either:

- a local authority Merton compliant age assessment has been completed and found the claimant to be under 18, which the Home Office has agreed with after:
  - giving significant weight to the assessment
  - taking all reliable evidence into account ([Local authority age assessment already completed](#))
- you doubt the claimant’s claimed age but after a careful consideration of the specifics of the case they have been given the benefit of the doubt and their claimed age is accepted ([Accepting the claimed age in cases where the claimed age is doubted](#))

## Outcome 3: Decision made to treat the claimant as a child until further assessment of their age has been completed

A decision should be made to give the benefit of the doubt and treat the claimant as a child until further assessment has been completed if you cannot be sure that the individual is an adult (as set out in [outcome 1](#)) and you have not accepted the claimed age (as set out in [outcome 2](#)). This further assessment includes obtaining the view of the local authority and considering this alongside other relevant evidence ([Provisionally treating the claimant as a child](#)).

Further to the above brief outcome descriptions, if an asylum seeker or migrants claimed age is doubted and there is no reliable evidence to support their claim, you must conduct an initial age assessment in accordance with the more detailed guidance in the remainder of the Initial age assessment section.

### Local authority age assessment already completed

In most cases, the initial age assessment will be conducted on claimants who have come to the attention of the UK authorities for the first time and therefore a local authority age assessment will not have previously been conducted. However, the presence of a local authority age assessment may for example arise if, either:

- the claimant has been in the UK for some time
- the claimant has previously been in the UK
- the circumstances permit the undertaking of a reduced length age assessment at the point of coming to the attention of the UK authorities for the first time

If an age assessment has already been conducted by a local authority, refer to [Local authority age assessments](#) for guidance on considering the assessment and, in the case of reduced length age assessments, also refer to [Reduced local authority age assessments](#).

### Physical appearance and demeanour very strongly suggests that they are significantly over 18

You must treat the claimant as an adult if their physical appearance and demeanour **very strongly suggests that they are significantly over 18 years of age**. You must give careful consideration when assessing whether a claimant falls into this category. Where they do, they will be considered under the adult processes and could, therefore, become liable for detention. Refer to the introduction of the [Initial age assessment](#) section for guidance on the significantly adverse consequences of unlawfully detaining children, on both the child themselves and the Home Office.

If your assessment determines that the claimant's physical appearance and demeanour very strongly suggests that they are significantly over 18, you must refer the case to another officer to act as a 'second pair of eyes'.

The second officer must be at least either a:

- chief immigration officer (CIO)
- higher executive officer (HEO)
- higher officer (HO)

The second officer must make their own independent assessment of the claimant's age. Their assessment must be:

- based on at least the same level of information as the assessing officer
- undertaken in the presence of the claimant – for instance, remote assessment based on a photograph of the claimant would not be sufficient as photographs are static, are not 3 dimensional and different lighting, exposure, camera quality and production methods can affect the apparent age displayed
- undertaken after the second officer has interacted with the claimant or after the claimant's interaction with other Home Office members of staff or other people around them has been observed – an instantaneous visual assessment of the claimant is not sufficient

The age a person must exceed, to be regarded as significantly over 18, is not specified within this guidance document. This is consistent with the Upper Tier Tribunal's judgment in [BF \(Eritrea\) v Secretary of State for the Home Department \[2017\] JR/8610/2014](#) which found that:

“...since the objective of the policy is to identify by way of initial ‘screening’ assessment cases that are outside the category of ‘borderline cases’ it is not apparent that there would be any value in greater precision than such an assessment can deliver”

## Assessing physical appearance

The assessment of an individual's physical appearance may include, but not necessarily be limited to, the following potential indicators of age:

- height
- build
- facial features, including facial hair, skin lines or folds, tone and weathering
- voice, including tone, pitch and expression (particularly in respect of males)

When determining the weight to be applied to these, the subsequent information on the limitations on using them must be borne in mind:

- ethnicity and genetic background can affect physical appearance, for example:
  - it is normal in some cultures for boys to have facial hair at an early age and for girls to develop at different ages
  - height is particularly difficult to use as a reliable indicator of age on its own due to being heavily dependent on the height of each parent
- there is considerable range of normal physical development during adolescence, even with those who grow up within the same ethnic, social and economic environment

- the claimant's journey to the UK - for example:
  - the journey, which may have been long and traumatic with limited opportunities to manage their basic physical health and self-care needs, could have had an aging effect on their appearance
  - with good care and some recovery time, the claimant's physical appearance may appear younger within a short period of time
- many asylum seekers have been subjected to poverty which could result in a lesser physical maturity than would be normally expected of their true age
- nutrition (even if they did not suffer deprivation) and illnesses can affect physical appearance
- children in some countries are more likely to have engaged in physical work from an early age than children in more industrialised nations – in these circumstances calloused hands are less likely to be evidence of maturity
- opportunities to exercise – for example, a person who exercises regularly may display muscle definition more associated with older people

## Assessing demeanour

It is essential to take account of how the person presents and their attitude, and relate this to the culture of the country of origin and events preceding your interaction with them, for example, their experiences during their journey to the UK. Demeanour is not in and of itself determinative of age, but can be relevant when considered with the claimant's physical appearance. The assessment of their demeanour may include the following observations, although when determining the weight to be applied to these, the subsequent information on the limitations on using them must be fully taken in to account:

- mannerisms
- body posture
- body language
- eye contact
- attitude towards and interaction with the assessing officers and other officials
- choice of clothing and how it is worn
- how the claimant copes with the assessment - for example, the level of confidence or nervousness displayed

The following information is relevant to the assessment of, and the assignment of weight to, the above potential indicators:

- trauma, post-traumatic stress disorder (PTSD) and depression may affect the claimant's demeanour and this will be particularly prevalent for those who have been tortured
- some young people take on responsibilities normally associated with adulthood at an earlier age, for example due to the culture in the country of origin or individual circumstances – in some instances this may result in a demeanour which appears older than their true chronological age
- the effect of the claimant's culture on their interaction with you, for example: some people consider direct eye contact to be impolite

- the journey, which may have been long and traumatic, could have left the claimant exhausted, emotional and malnourished
- the claimant's interaction with those around them will be affected by their level of understanding of what is going on and language barriers
- as a Home Office official, you are an authority figure and their views of those in authority could be informed by potentially negative experiences with officials in the country of origin and in countries visited during their journey to the UK – this may result in them being nervous or uncomfortable in your company
- the claimant may not have had a choice in their clothing - for example, their clothing could have been issued to them by a charitable organisation during their journey to the UK or following arrival
- observations of demeanour made over a short period of time, such as during asylum registration, will limit the weight that can be applied to them

## The decision

As shown in [Assessing physical appearance](#) and [Assessing demeanour](#), although levels of maturity can be assessed, maturity is not an accurate reflection of chronological age and maturity itself can be variable. You must also keep in mind that young people may deliberately attempt to present as younger or older than their age.

The policy is specifically designed to allow a large margin of error in favour of the claimant's claim to be a child. It achieves this by requiring Home Office staff to only treat them as an adult on the basis of their physical appearance and demeanour, where they conclude that these indicators very strongly suggest that they are significantly over 18 years of age. This takes account of the challenges in assessing a claimant's age in such circumstances.

Although each claimant's circumstances are unique, when making decisions on age based on the claimant's physical appearance and demeanour, you should utilise your experience of working with asylum seeking children and young people, particularly those:

- with the same ethnicity, nationality and gender
- of a similar age and background
- whose ages have been accepted by the Home Office

If the claimant disagrees with the Home Office determination of adult status, they will be notified in writing within the IS.97M letter that they can approach their local authority for an age assessment as a possible child in need. You must review decisions to treat claimants as adults if you subsequently receive relevant new evidence.

## Accepting the claimed age in cases where the claimed age is doubted

There are circumstances where the claimant's age is doubted but it is appropriate to give them the benefit of the doubt and accept their claimed age, see:

- [scenario one](#)
- [scenario two](#)

## Scenario one

Where a child's claimed age is doubted by the Home Office, but there is insufficient evidence at that point to assess them as a different age, they must be given the benefit of the doubt and their claimed age accepted if they meet all the following criteria:

- although the child's claimed age is doubted by the Home Office their claim to be under 18 years of age is not disputed
- there is no reliable supporting documentary evidence showing them to be a different age
- the difference between the child's claimed age and the Home Office's estimated age based on their physical appearance and demeanour is less than 24 months
- the child is not being treated as a different age by the local authority to that claimed by the child
- the child has not previously claimed to be a different age

Giving the benefit of the doubt in this circumstance reflects the fact that determination of age is impossible to do with certainty but you are satisfied that they are a child and not a lot older or younger than the age claimed.

## Scenario two

Where a claimant's claimed age is doubted by the Home Office, but there is insufficient evidence at that point to assess them as a different age, they must also be given the benefit of the doubt and their claimed age accepted if they meet all the following criteria:

- the local authority has confirmed in writing that they will not be conducting a Merton compliant age assessment as they have accepted the claimant's claimed age
- their physical appearance and demeanour has not been assessed by the Home Office to very strongly suggest that they are significantly over 18 years of age
- there is no reliable supporting documentary evidence showing them to be a different age
- the acceptance of the claimed age would not result in a current or previous period of detention to be contrary to the restrictions on the detention of children in paragraph 18B of [schedule 2 to the Immigration Act 1971](#)

Such an outcome may either occur before or after the child enters the local authority's care.

Giving the benefit of the doubt in this circumstance and accepting the local authority's decision to accept the child's claimed age without conducting a Merton

compliant age assessment, reflects the particular expertise local authorities have through working with children on a daily basis.

A more in-depth assessment by the Home Office is required where a local authority accepts the claimant's age without conducting a Merton compliant age assessment and where in doing so, means that a current or previous period of detention is contrary to the restrictions on the detention of children. The requirement for a more in-depth assessment reflects the serious implications of unlawful detention of a child. The risk of an unlawful detention claim must not factor into the assessment of whether or not to accept the claimed age, but is relevant to whether a more in-depth assessment of age is necessary. In such cases, you should provisionally give the claimant the benefit of the doubt and treat them for the time being as being their claimed age until further assessment has been completed by the Home Office. This further assessment would include obtaining and carefully considering the findings of a local authority Merton compliant age assessment, alongside any other relevant information available. For further information refer to [Treating the claimant as a child until a more in-depth assessment of their age has been completed](#).

## Decision to accept the claimed age: corresponding actions

In all cases where the claimant is given the benefit of the doubt and their claimed age is accepted, you must notify the local authority of this decision and the reason for doing so.

A request for the local authority to conduct an age assessment should not normally be made, but if the local authority undertakes one or any other new relevant evidence is received, you must review the decision and update the young person's file accordingly.

## Provisionally treating the claimant as a child

All other claimants who claim to be children and where doubt remains over whether they are an adult or a child, must be afforded the benefit of the doubt and, for the time being, their claimed age until further assessment has been completed. This policy is designed to:

- safeguard the welfare of children
- ensure that the claimant is treated age-appropriately
- ensure that the claimant receives the necessary services and support

It does not indicate final acceptance of the claimant's claimed age, which will be assessed in the round when all relevant evidence has been considered, including the view of the local authority to whom unaccompanied children, or claimants who are given the benefit of the doubt and temporarily treated as unaccompanied children, must be referred.

You must also be alert to the fact that this process creates a potential risk of placing young adults in children's services if the claimant is subsequently assessed to be an adult. It is therefore essential that where the Home Office has doubts over whether



the claimant is an adult or a child, this is clearly communicated to the local authority to enable them to take reasonable steps to prevent or minimise these risks while doubt remains.

## Physical appearance and demeanour suggests that they are below the age claimed

In the interests of identifying vulnerable young people and helping them access the services they require, you must be alert to the risk that in some cases children may falsely or mistakenly claim to be older than they are. This may for example occur where the claimant:

- is a potential victim of exploitation or modern slavery and has been coerced by the perpetrators to claim to be an adult, to reduce the likelihood that their predicament would come to the attention of the UK authorities and impede their exploitation by the perpetrators
- is unsure of their age
- wants to live independently of local authority supervision
- wants to be allocated more independent living arrangements by the local authority as opposed to foster care
- does not want to be moved to another part of the country under the [unaccompanied asylum seeking children \(UASC\) national transfer scheme](#)
- wants to avoid attending school, potentially motivated by a desire to obtain paid employment
- wants to attend school in the same year as older friends or to live with them
- has pretended to be an adult throughout their journey to the UK to avoid being placed in a child reception centre in one of the transit countries

This situation may be detrimental to the claimant for a number of reasons, for example:

- they may not be treated age-appropriately
- they may not receive the necessary services and support
- their welfare may not be sufficiently safeguarded

For guidance on assessing physical appearance and demeanour, refer to [Assessing physical appearance](#) and [Assessing demeanour](#).

If the claimant's physical appearance and demeanour suggests that they are **below** the age claimed and is a child, you should, following discussion with a CIO or HEO or HO, immediately:

- explain that the Home Office believes them to be younger than the age claimed
- ensure that the claimant is aware of the potential detrimental consequences of being treated as an older age
- provide the claimant with an opportunity to provide a different date of birth

If the claimant declines to alter their claimed age and you still have reason to believe they are below the age claimed and a child, the claimant should be:

- treated as the age the Home Office believes them to be until further assessment has been completed
- referred to the local authority and their view on the claimant's age obtained

You must be alert to the fact that this process creates a potential risk of placing young adults in children's services if the claimant is subsequently assessed to be an adult. It is therefore essential that where the claimant's claim to be an adult is not believed by the Home Office, this dispute is clearly communicated to the local authority to enable them to take any reasonable steps to prevent or minimise these risks while any doubt remains.

## Potential victims of modern slavery

If there are reasonable grounds for believing both that a person may be a victim of modern slavery and that person may be under 18, until such time as a formal age assessment determines their age, [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) requires that the Home Office must assume for the purposes of its functions under the relevant arrangements within the Act that the person is under 18. Refer to the section on [section 51 of the Modern Slavery Act 2015](#) for further information.

For guidance on considering cases which involve modern slavery, refer to Victims of modern slavery. If the claimant is in an Early Adopter Site (Greater Manchester, Hampshire, the Isle of Wight and Wales) then a referral should also be made to the Independent Child Trafficking Advocate. See: [Interim guidance on the roles and responsibilities of Independent Child Trafficking Advocates](#).

### Related content

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# How the process safeguards and promotes the welfare of children

This page tells you how the age assessment process has regard to the need to safeguard and promote the welfare of children.

The welfare and safety of children must be the primary concern for all those involved in the age assessment process, including Home Office officials. The assessing age policy has in-built safeguards to ensure it is compliant with the duty under [section 55](#) to have regard to the need to safeguard and promote the welfare of children.

For example, claimants whose age has not been accepted will initially be afforded the benefit of the doubt and treated as children unless their physical appearance and demeanour very strongly suggests they are significantly over 18.

This is a safeguard to allow for the possibility that these individuals may produce evidence showing that they are a child or a Merton compliant age assessment by a local authority later assesses them to be a child. It reduces the risk of treating children as adults and excluding them from child specific services and safeguards. In particular, they will have a responsible adult present for the substantive interview, and will not be accommodated with adults.

The policy applied to claimants whose physical appearance and demeanour very strongly suggests they are significantly over 18 is also consistent with the section 55 duty because, in the absence of documentary evidence, a formal consideration has taken place that has found them to be an adult. The duty under section 55 applies to all children in the UK. By treating those whose physical appearance and demeanour very strongly suggests they are significantly over 18 as adults, the Home Office contributes to the wider safeguarding role of local authorities. For example, local authorities will seek to place only those individuals who are children in settings where they will mix freely with other children, such as within a foster family or at school.

Furthermore, the Home Office's policy to heavily rely on Merton compliant age assessments when making a decision on a claimant's disputed age is consistent with the section 55 duty because the Merton guidelines also require that proper safeguards and standards of enquiry and fairness are adhered to. Local authorities who are bound by [section 11 of the Children Act 2004](#) (upon which the section 55 duty is largely based) also rely on their own Merton compliant age assessments unless and until they receive further reliable evidence indicating a different age.

## Related content

[Contents](#)

# Initial assessment: notification and recording the decision

This page tells you about the process at the initial age assessment stage for notifying the claimant of the age assessment decision, updating CID and the paper case file, and issuing an application registration card (ARC).

## Notifying the claimant of the decision

The steps to be followed when notifying the claimant of the decision at the initial assessment stage is determined by the decision made. For more information see:

- [treated as an adult](#)
- [treated as a child until further assessment has been completed](#)
- [claimed age accepted](#)

## Treated as an adult

If the claimant is to be treated as an adult, you must immediately:

- inform the claimant that their claimed age is not accepted, and that their asylum claim will be processed under adult procedures
- complete letter IS.97M ensuring it is signed by the chief immigration officer (CIO) or higher executive officer (HEO) or higher officer (HO) or higher, serve the letter on the claimant and place a copy on file
- complete form ASL.3596 (also known as BP7), which should set out the reasons why the claimed age cannot be accepted, and hold the form on file

## Treated as a child until further assessment has been completed

If the claimant has been afforded the benefit of the doubt and treated as a child until further assessment has been completed or the Home Office accepts that the claimant is a child but does not accept the age they claim to be, you must immediately:

- notify the individual of this decision in a sensitive way - for example:
  - because there is insufficient information at that stage on which to base a final decision on their age, they will be given the benefit of the doubt and will be treated as their claimed age until relevant information is made available and a final decision has been made
  - a referral will be made to the appropriate local authority to collect them
  - the local authority is likely to make an assessment of their age and communicate that information to the Home Office
  - the Home Office will consider this assessment alongside any other relevant accessible evidence when making the decision on their age

- complete appropriate notification letter (ensuring it is signed by the CIO or HEO or HO or higher), serve the letter on the claimant, sensitively explain its contents, and place a copy of the letter on file:
  - use IS.97M if the claimant has been afforded the benefit of the doubt and treated as a child until further assessment has been completed
  - use IS.98M if the Home Office accepts that the claimant is a child but does not accept the age they claim to be
- complete form ASL.3596 (also known as BP7), which should set out the reasons why the claimed age cannot at this stage be accepted, and hold the form on file
- refer the claimant to the relevant local authority and request that a Merton compliant age assessment by the local authority be arranged (for further guidance on referring a claimant to a local authority, refer to Children's asylum claims)

## Claimed age accepted

If the Home Office has accepted the claimed age, you must immediately:

- inform the claimant that their claimed age has been accepted, and that their asylum claim will be processed under unaccompanied child procedures
- refer the claimant to the relevant local authority (for further guidance on referring a claimant to a local authority, refer to Children's asylum claims)

## Updating CID and the paper case file at the initial decision stage

For all matters, the case file and CID must be updated to make clear the decisions made and the reasons why. CID must be updated as promptly and accurately as possible as this information is essential for reporting on age dispute cases.

Decision makers should undertake the following actions:

1. Minute CID and case file to note:

- that the claimant's age is in doubt or disputed and why, and the decision made
- who the assessing officer was and, if applicable, the countersigning officer
- if the claimant was assessed as an adult, whether they continued to maintain that they were a child after service of the decision

2. Record the date of birth on 'Person Details' in accordance with the following guidance:

- enter the assessed date of birth if a decision has been made on the claimant's age
- enter the claimed date of birth if:
  - the claimant is being afforded the benefit of the doubt and treated as a child until further assessment has been completed

- the claimant has been afforded the benefit of the doubt and their claimed age is accepted
3. If the claimant is being treated as an adult because the Home Office has assessed that their physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age, when entering the estimated date of birth onto CID, it must:
- reflect that they have been assessed as significantly over 18
  - not be entered as 18 years of age

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5. If a decision has already been made on the claimant's age at the initial decision stage and their age is no longer in dispute, you must immediately update CID following the guidance in [Updating the Case Information Database](#).

## **Application registration card: date of birth**

The production of the application registration card (ARC) will be authorised from CID and use information recorded on CID. Therefore, you must make sure when you review the information in the print summary for ARC production that you have recorded the age appropriately on CID:

- where the claimed age has not been accepted, but they are being afforded the benefit of the doubt and treated as a child until further assessment has been completed, the date of birth recorded must be the date of birth claimed by the child and the age dispute flag must have been raised in special conditions
- where a decision has been made on the claimant's age, the date of birth recorded must be the assessed date of birth and the 'Age Dispute Case' special condition must not be open

The ARC when issued will then be produced with the date of birth recorded on CID and, where the age of the claimant is still in doubt, with a disputed age marker.

If the claimant's date of birth changes, the ARC must be amended. You must:

1. Request the claimant's current ARC.
2. Cancel their existing ARC.
3. Launch the ARC print summary.
4. Email the ARC Assurance team to request a new ARC.

## Age assigned by local authority pending a Merton compliant age assessment

It is ideal for the Home Office and local authorities to assign the same date of birth to the claimant while they are being afforded the benefit of the doubt. However, the Home Office's provisional recording of the claimed date of birth on documentation issued to the claimant during this intervening period, does not obligate the local authority to treat them as this age pending the completion of their age assessment. This is particularly the case if they believe that their duties under the [Children Act 1989](#) require them to treat the claimant as a different age.

If the Home Office has accepted a claimed age without the need for further assessment, but the local authority notifies the Home Office that they doubt the claimed age and intend to conduct an age assessment, you must request that the local authority provides the age assessment report or form (or equivalent) as soon as it becomes available. Once received, you must consider it in accordance with the guidance in this guidance.

## Application of this guidance to claimants deemed to be over 18

In general, unless specified otherwise, the remainder of this instruction will not apply to those claimants:

- deemed to be 18 or over - they fall to be considered under adult processes
- whose ages have been accepted

### Related content

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# Asylum registration

This section tells you about the routing and accommodation of claimants following a decision to temporarily treat them as a child until a more in-depth assessment of their age has been completed.

Following completion of asylum registration procedures, claimants whose age is in doubt (but who are benefiting from currently being treated as a child) must be referred to the National Asylum Allocation Unit (NAAU) with clear instructions that:

- the claimant's age is in doubt
- they are being treated as a child until further notice

NAAU must then route the claimant to an appropriate asylum case working team.

Where a local authority has declined to accommodate a claimant referred to them as a child or as a possible child, it could be because they have already assessed the claimant as an adult. If this happens, you must:

- seek clarification from the local authority
- if completed, obtain one of the following documents and consider it in accordance with the guidance in this guidance:
  - a copy of an age assessment report
  - an [age assessment information sharing pro forma](#) (or equivalent)

## Recording age assessment details on asylum correspondence

In any letter to a claimant whose age is in doubt, the claimant's **claimed** date of birth must be cited, for example: Day Month Year (disputed). It must be accompanied by a note that states that the claimant's age is in doubt.

### Related content

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# Local authority age assessments

This page tells you, the assessing officer, about the procedure you must follow to obtain and consider a local authority age assessment.

Local authorities will often have a duty to provide accommodation and support to an unaccompanied asylum seeking child under provisions of the:

- [Children Act 1989](#) in England
- [Social Services and Well-being \(Wales\) Act 2014](#) in Wales
- [Children \(Scotland\) Act 1995](#) in Scotland
- [Children \(Northern Ireland\) Order 1995](#) in Northern Ireland

Therefore, all claimants who are being treated as unaccompanied children must be referred to the relevant local authority. As part of its duties, the local authority will, if necessary, conduct an assessment of the claimant's age in order to determine eligibility for children's services, and in some cases, the level of the claimant's needs.

## Local authority accepted the claimed age without conducting an age assessment

In some cases, the local authority may decline to undertake an assessment if they have no reason to doubt the claimed age and therefore believe that the assessment is not necessary. In these cases, you should consider whether it is appropriate for the Home Office to agree with the decision by the local authority and accept the claimed age or request that the local authority undertakes an assessment despite their acceptance of the claimants age. Refer to:

- [accepting the claimed age in cases where the claimed age is doubted](#) for guidance on whether to agree with the decision made by the local authority
- the Age assessment joint working guidance on liaising with local authorities in cases where they are reluctant to undertake an age assessment but the Home Office is of the opinion that one is necessary

For guidance on working with local authorities, refer to [Sharing evidence of age and joint working with local authorities](#).

## Merton judgment and further case law

There is no prescribed way in which local authorities are obliged to carry out age assessments. However, the courts have set out guidance and minimum standards which must be applied by local authorities. 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 requirements of the case law and the corresponding legal judgments are set out below. When assessing a reduced local

authority age assessments' adherence to these requirements, this must be done in conjunction with the guidance in [Reduced local authority age assessments](#). You must note that although these summaries are correct at the time of publishing, new relevant caselaw may subsequently be promulgated amending the requirements.

## Basic requirements before starting the interview

- the assessment must be carried out by 2 trained social workers in cases where whether the claimant is an adult or a child is objectively borderline and therefore a more in-depth assessment of their age is necessary - as specified in:
  - [AS v London Borough of Croydon \[2011\] EWHC 2091](#), paragraph 19
  - [R \(FZ\) v London Borough of Croydon \[2011\] EWCA Civ 59](#), paragraph 2
  - [J v Secretary of State for the Home Department \[2011\] EWHC 3073 \(Admin\)](#), paragraph 13
- an interpreter must be provided if this is necessary – as specified in [R \(FZ\) v London Borough of Croydon \[2011\] EWCA Civ 59](#).
- the individual must be offered the opportunity to have an independent appropriate adult present - as specified in:
  - [A v London Borough of Croydon \[2009\] EWHC 939 \(Admin\)](#)
  - [R \(NA\) v London Borough of Croydon \[2009\] EWHC 2357 \(Admin\)](#), paragraph 50
  - [R \(FZ\) v London Borough of Croydon \[2011\] EWCA Civ 59](#), paragraph 25
- local authorities must comply with their own guidance when carrying out the assessment - as specified in:
  - [A v London Borough of Croydon \[2009\] EWHC 939 \(Admin\)](#)
  - [R \(NA\) v London Borough of Croydon \[2009\] EWHC 2357 \(Admin\)](#)
- 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 - as specified in [R \(NA\) v London Borough of Croydon \[2009\] EWHC 2357 \(Admin\)](#), paragraphs 50 and 69.
- except in clear cases (where it is obvious that a person 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 of the claimant - as specified in:
  - [Merton](#), paragraphs 27, 37 and 38
  - [R \(FZ\) v London Borough of Croydon \[2011\] EWCA Civ 59](#), paragraph 3

## The interview

Those who are assessing age must:

- explain to the claimant the purpose of the interview - as specified in [Merton](#), paragraph 55
- seek to obtain the general background of the claimant, including the claimant's family circumstances and history, educational background, and the claimant's activities during the previous few years - ethnic and cultural information may also be important – as specified in [Merton](#), paragraph 37

- 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 – as specified in [Merton](#), paragraph 37
- 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” – as specified in:
  - [Merton](#), paragraph 55
  - [R \(FZ\) v London Borough of Croydon \[2011\] EWCA Civ 59](#), paragraph 20
  - [R \(NA\) v London Borough of Croydon \[2009\] EWHC 2357 \(Admin\)](#), paragraph 52
- remember that cases vary, and the level of inquiry required in one case may not be necessary in another – as specified in [Merton](#), paragraph 50

## The conclusion

- a local authority assessing age may take into account information obtained by the Home Office, but it must make its own decision, and for that reason must have adequate information available to it - as specified in [Merton](#), paragraph 39
- a medical report from a paediatrician is not necessary and local authorities are not required to commission one, but if submitted by the claimant, 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 – as specified in:
  - [Merton](#), paragraphs 50 and 51
  - [A v London Borough of Croydon \[2009\] EWHC 939 \(Admin\)](#), paragraphs 33, 34 and 47
- the finding that little weight can be attached to physical appearance applies even more so to photographs which are not three-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 a person wears – as specified in: [AS v Kent County Council \[2017\] UKUT 446](#), paragraph 209
- 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 – as specified in [AS v Kent County Council \[2017\] UKUT 446](#), paragraph 207
- the conclusions and reasons must engage with any documents submitted by the claimant - as specified in [R \(NA\) v London Borough of Croydon \[2009\] EWHC 2357 \(Admin\)](#), paragraphs 61-64
- adequate reasons must be given for a decision that a claimant claiming to be a child is not a child (though these need not be long or elaborate) - as specified in:
  - [Merton](#), paragraphs 45 and 48
  - [A v London Borough of Croydon \[2009\] EWHC 939 \(Admin\)](#)
- the interview must be written up promptly and notes must be accurate and consistent - as specified in [R \(NA\) v London Borough of Croydon \[2009\] EWHC](#)

[2357 \(Admin\)](#), paragraphs 50 and 60 - a 2 month period between interview and write-up was found to be contrary to practice at that time

- the absence of the time of commencement and completion of the interview in the assessment document, or the question of breaks, does not make the process defective, however desirable such information might be – as specified in [ZS \(Afghanistan\) v Secretary of State for the Home Department \[2015\] EWCA Civ 1137](#), paragraph 36

For guidance on the undertaking of age assessments by social workers, refer to the [ADCS Age assessment guidance](#).

## Considering local authority age assessments

You, the decision maker, must give considerable weight to the decision on age made by local authorities, recognising the particular expertise they have through working with children on a daily basis. 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. For example, the local authority's assessment will normally be accepted as decisive where it is the only source of information about the claimant's age. However, all sources of information must be considered and an overall decision made in the round. Refer to [Other evidence of age](#) and [Weighing up conflicting evidence of age](#) for further information.

You must carefully consider the findings of the local authority and discuss the matter with them where appropriate, such as where:

- the findings are unclear
- the findings do not seem to be supported by evidence
- the findings appear to have placed excessive or insufficient weight to documentary evidence, or did not take into account documentary evidence
- it appears that the case is finely balanced and the claimant has not been given the benefit of the doubt
- it appears the general principles set out in the Merton judgment and further case law were not adhered to

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 – as specified in the following relevant case law:

- [R\(J\) v Secretary of State for the Home Department \[2011\] EWHC 3073 \(Admin\)](#), paragraph 31
- [AAM v Secretary of State for the Home Department \[2012\] EWHC 2567](#), paragraph 108
- [Durani v Secretary of State for the Home Department \[2013\] EWHC 284](#), paragraph 90

At the very least the local authority's age assessment report or [age assessment information sharing pro forma](#) must contain:

- the assessment conclusion
- the reasons on which their conclusion is based
- evidence that the assessment complies with the general principles set out in the Merton judgment and further case law
- confirmation from the local authority that the age assessment has been carried out in compliance with the guidelines in the Merton case and further case law

It is also important to remember that liability for detention rests with the Home Office. If an officer cannot satisfy themselves that an age assessment is Merton compliant, even where the general detention criteria are met, the individual must not be detained as there is a risk of unlawful detention. Refer to the introduction of the [Initial age assessment](#) section for guidance on the significantly adverse consequences of unlawfully detaining children, on both the child themselves and the Home Office.

You should keep in mind that even if the local authority age assessment is Merton compliant, such assessments can potentially be overturned. For example, as a result of:

- new pertinent evidence coming to light
- a subsequent stronger Merton compliant age assessment being undertaken, such as one which takes in to account decisive or significant information not available during the first assessment
- a judicial review judgment which makes a finding of fact that the claimant is a different age than the age assessed by the local authority

Under the [civil procedure rules for judicial reviews](#), claimants can challenge a local authority age assessment through judicial review within 3 months of the assessment being made. The potential grounds for such a challenge are not limited to claims of unlawful process, but could instead or also challenge the assessed age, requesting that the court makes a 'finding of fact'. Even if the assessment is not challenged within 3 months, if new relevant evidence is provided to the local authority, Merton caselaw requires local authorities to consider it and review the assessed age.

## Reduced local authority age assessments

There may be occasions where a local authority social worker considers that it is very clear from the claimant's physical appearance and demeanour that they are over the age of 18 and that prolonged inquiry (a comprehensive local authority age assessment) is not required. This is consistent with the Association of Directors of Children's Service practice guidance on conducting age assessments.

The case law on Merton age assessments allows for a less prolonged enquiry by a social worker where it is very clear from the physical appearance that a person is under or over 18 years of age in the absence of compelling evidence to the contrary. Furthermore, though adequate reasons must be given by an assessing social worker for a decision that a claimant claiming to be a child is not a child, these need not be long or elaborate, particularly in cases where the social worker has assessed that they are very clearly an adult.

Such a reduced local authority age assessment may already have been conducted when the child was first encountered by the Home Office, or it may be the result of referring an individual to a local authority and requesting an age assessment from them.

When considering the adherence of a reduced assessment against the Merton judgment and further case law, you should note that a reduced local authority assessment will not have been arrived at using a long interview or series of interviews which take place when a comprehensive Merton compliant assessment is conducted. It is, in fact, a statement from the local authority that in their view and for the reasons given, conducting such an assessment is not necessary. Because a comprehensive Merton assessment interview has not taken place, although these reduced assessments still have weight, they may not be supported by a second trained social worker, or have taken place in the presence of an independent adult. This does not necessarily affect the weight that can be applied to them, but they are additional reasons for checking that the assessment is reliable.

If an [age assessment information sharing pro forma](#) is submitted, as opposed to equivalent written evidence, you should note that the pro forma and its instructional text was drafted for comprehensive Merton compliant age assessments. Therefore, if a reduced local authority age assessment is conducted by a social worker, the following information can acceptably have been omitted from the pro forma:

- only the details and signature of one social worker are required in cases where the age assessment was conducted by one social worker
- the pro forma may not be endorsed by the social worker's manager or supervisor
- the claimant may not have been offered the opportunity for an independent adult to be present during the age assessment

If a decision is made by the Home Office to treat the claimant as an adult predominantly based on such an assessment, decision makers should record the Home Office's decision to be one that was based on a Merton compliant local authority age assessment, as would be the case for those predominantly based on a comprehensive Merton compliant age assessment. The minimum threshold that must be met for a local authority to assess that it is very clear from the claimant's physical appearance and demeanour that they are over the age of 18, is different and potentially lower than that required for the Home Office to assess that a claimant's physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age. This difference reflects the particular expertise local authorities have through working with children on a daily basis.

## Obtaining the results of a local authority age assessment

If an age assessment has been undertaken by the local authority, you must request a copy of the local authority's age assessment report and confirmation from the local authority that it has been carried out in compliance with the guidelines in the Merton case and further case law. If this cannot be obtained, you must at the very least obtain an [age assessment information sharing pro forma](#) or equivalent (for further

guidance refer to [Sharing evidence of age with local authorities](#)). Once obtained, you will then need to satisfy yourself that the assessment was carried out in a Merton compliant manner (refer to [Considering local authority age assessments](#)).

The age assessment information sharing form contains instructional text on the information required by the Home Office to ensure that the age assessment is case law compliant. The use of the form by local authorities in cases where the age assessment report is not disclosed is preferred practice, but its use is not binding on local authorities. If the local authority submits a document which is not the age assessment report or an age assessment information sharing form, but the document contains the exact information required within the form, this can be accepted. In these circumstances, you must request that in future the age assessment report or, if not, the age assessment information sharing form is provided.

If the local authority fails to provide the age assessment report or age assessment information sharing pro forma (or equivalent), or the document does not include sufficient information to confirm that the age assessment has been carried out in compliance with the guidelines in Merton and further case law, you must immediately contact the local authority to request this. If this is not provided, the issue must immediately be escalated to your senior caseworker and onwards if necessary, until the evidence is obtained.

## Responsibility for the care of the claimant has been transferred from the entry local authority

In the event responsibility for a claimant is transferred from the entry local authority in to the jurisdiction of another local authority before a Merton compliant age assessment has been conducted, to help prevent delays in the undertaking of the assessment, you must:

- check that the second local authority has been made aware that the claimed age has been doubted by the Home Office, such as within the Unique Unaccompanied Child Record if transferred under the National Transfer Scheme
- make contact with the second local authority to ensure that they are aware that the claimed age has been doubted by the Home Office and enquire whether the local authority intends to conduct the age assessment

Please note that there is no legal obligation on the authority to conduct an age assessment just because the Home Office itself disputes the claimed age. For guidance on cases where a local authority declines to conduct an age assessment due to accepting the claimed age, refer to [Local authority has accepted the claimed age without conducting an age assessment](#).

Examples of when such a transfer could occur include:

- responsibility for the care of the claimant is transferred between local authorities under the National Transfer Scheme (see [Interim National Transfer](#))

[Protocol for unaccompanied asylum seeking children \(UASC\)](#) for further information)

- responsibility for the care of the claimant is transferred from a local authority to their family or to someone who in law or custom has responsibility to care for them, and they will be living within a **different** local authority's jurisdiction (see [Accompanied doubtful age cases](#) for further information)

Where responsibility for the care of the claimant is transferred from a local authority to their family or to someone who in law or custom has responsibility to care for them, and they will still be living in the **same** local authority's jurisdiction, refer to [Accompanied doubtful age cases](#) for guidance.

## Recording receipt of a local authority age assessment

If a local authority age assessment report or [age assessment information sharing pro forma](#) has been received, you must clearly minute the case file to record:

- what evidence has been received
- when it was received
- the name of the local authority

## Age assessment disputed by the claimant

Where a claimant has been age assessed as an adult by the Home Office and the decision relied on a local authority age assessment, but the claimant maintains that they are a child, it is important to establish the local authority's full reasons for their decision on age. If the Home Office does not already possess a copy of the age assessment report, as opposed to the form (or equivalent), you must request the assessment report from the local authority and the claimant. Where the local authority is reluctant to disclose the assessment, such as due to concerns over confidentiality, the claimant must be asked to provide permission for the local authority to disclose it. If the request to the claimant is refused or remains unanswered, you must take this into consideration when assessing all evidence in the round, and if appropriate this must be raised in the substantive decision and at any appeal against the asylum decision.

If the claimant and local authority have refused to provide the age assessment report before the appeal hearing, you or the presenting officer must submit an application to the Tribunal or Court asking for an order that the claimant discloses the age assessment report in advance of the hearing. If necessary, this application must be pursued further at the case management review (CMR) or appeal hearing.

Finally, if evidence relating to a claimant's age conflicts with other evidence, a judge may want to compare the experience and qualifications of those completing the evidence (often medical evidence submitted by a paediatrician and a local authority age assessment). In order to defend the Home Office's reliance on the local authority age assessment at the appeal, you must:



- ask the local authority to provide the social worker's age assessment experience (including length of practice) and qualifications if this has not already been provided
- include this information in the appeal bundle or, if the information cannot be submitted in advance of the appeal hearing, it must be disclosed by the presenting officer, during the hearing

If, in disputing the Home Office's assessment of their age, the claimant has provided new evidence relevant to their age, you must refer to the guidance in [New relevant evidence received post age decision](#).

## Recording attempts to obtain an age assessment report or pro forma

You must record on the case file and case information database (CID) all attempts to obtain a local authority age assessment report or [age assessment information sharing pro forma](#), including telephone calls. All responses from the claimant, local authority or legal representative must be noted and retained on file, since these may have a bearing on future appeal hearings.

## Making the asylum decision without a local authority age assessment

If the age of the claimant is material to the decision on the claim, the decision must be delayed whilst a full decision on their age remains outstanding. This would include decisions on eligibility for:

- asylum
- humanitarian protection
- UASC leave under [paragraph 352ZC of the Immigration Rules](#)
- family/private life under the Immigration Rules
- discretionary leave

If the delay in making the decision on age is as a result of a delay in obtaining the local authority's age assessment report or [age assessment information sharing form](#), you must make every attempt to contact the local authority to obtain this as soon as possible to minimise the delay in making the decision on the claim. In these circumstances, it should be made clear to the local authority that the delay in the Home Office receiving the age assessment report or information sharing form is delaying the outcome of the claimant's case.

Where the age is not material to the decision on the claim, the asylum decision must not be delayed pending an age assessment, but you must still contact the local authority and endeavour to obtain the age assessment report or an age assessment information sharing form before the decision is made.

This applies to both accompanied doubtful age cases and unaccompanied doubtful age cases.

## Checking the reliability of documents for local authorities

If a claimant submits a document to a local authority in support of their claimed age, you must provide assistance to the local authority where possible to help determine the likely reliability of these documents. Where possible, this must be completed before the local authority conducts their age assessment. For guidance on assessing the reliability of documents submitted by a claimant in support of their claimed age, refer to Assessing credibility and refugee status.

### **Related content**

[Contents](#)

# Other evidence of age

This section provides decision makers with guidance on different types of evidence that may be submitted in support of an asylum seeker's claimed age. Unless in accordance with the guidance this evidence has been assessed to be sufficient proof of age, it must be considered alongside a local authority age assessment.

## Travel and identity documents

An original and genuine passport, travel document, or national identity card in the claimant's name, which you can verify as genuine, and which shows the claimant's age at the time of the application, will usually be sufficient proof of age. However, caution must be exercised in accepting passports or other identity documents from countries where there is evidence they can be obtained improperly or through ways that provide little evidence the information is accurate.

Photocopies or faxed copies of these documents will carry considerably less weight as evidence of age. For country specific guidance on travel and identity documents, refer to the [Country policy and information](#).

## Birth certificates

An original and genuine birth certificate in the claimant's name will normally be acceptable proof of the claimant's age, provided that it is accompanied by other genuine official documentation bearing a photograph of the holder, for example:

- a military card
- an identity card
- a government pass

However, caution must be exercised in accepting birth certificates and other official documents from some countries where there is evidence they can be obtained improperly or through ways that provide little evidence the information is accurate.

Where there is no other genuine official documentation to support the birth certificate, it must still be considered alongside all the other evidence, but will not necessarily be considered determinative. If in any doubt, guidance must be sought from a senior caseworker. For country specific guidance on birth certificates, refer to Country policy and information.

## Evidence of age from visa applications or biometric data

A biometric visa match is evidence of an application for a visa, which will usually have required the claimant to present their passport (and possibly other documents in support of the application) for examination to Home Office officials overseas. If Home Office records show the passport to have been accepted as genuine, it will constitute very strong evidence of identity, including age. However, as stated in [Travel and identity documents](#), caution must be exercised if the passport or other

identity document was issued by a country where there is evidence they can be obtained improperly or through ways that provide little evidence the information is accurate.

Evidence relevant to age may also be obtained through the international biometric data-sharing process. The nature of this evidence will vary considerably from one case to another, as will the weight applied to it.

The Eurodac system records the fingerprints and the biographic and encounter details of asylum claimants and irregular migrants in the European Union (EU), Norway, Iceland and Switzerland. It may, in some cases, be a further source of evidence relevant to identity and age. However, caution must be exercised as an individual may have provided an incorrect date of birth in another European country. Also, age and name checks in other EU countries may not have been conducted with the requisite safeguards, such as interpreters (if required), resulting in an incorrect date of birth being recorded.

Whenever evidence of age from these sources arises and there is a discrepancy with the claimant's claimed age, you must immediately:

- contact the claimant to fully explore the discrepancy
- consider in the round the claimant's explanation for any difference alongside the wider evidence

In all cases, local authorities must be made aware of information that supports or disputes the claimed age in age dispute cases as soon as possible.

For further information see Visa Matches and the age dispute cases section of Biometric data-sharing process.

## Authenticity of documents

A claimant may state that documentary evidence showing them to be an adult is in error, or was obtained fraudulently through the use of forged documents, bribery or other means. For instance, claimants may have given incorrect information about their age on visa applications in order to facilitate their exit. The possibility must also be taken into account that a claimant has been provided with documents, including travel documents, by an agent or trafficker (for further guidance on human trafficking refer to Victims of trafficking: guidance for frontline staff).

Where there are concerns regarding the reliability of a document, you 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 claimant was required to sign a declaration confirming correct details

- whether the claimant reported the error to the issuing authority (if so, when and with what outcome)
- whether the claimant used the document (for example, for travel or using a birth certificate to obtain other documents or benefits)
- whether there were any officials bribed to obtain the document
- the country situation, objective evidence of strict procedures
- the consequent likelihood of the claimant's explanation being true

The above considerations are only a starting point when attempting to establish the likely reliability of documents. You must also keep in mind that because of the possibility that the document was provided by a third party, the claimant may be unable to provide information relevant to the above considerations.

Where there are concerns regarding the reliability of a document:

- the relevant country of origin information material must first be fully considered
- the concerns can be explored with the claimant
- guidance can be sought from a supervising officer, senior caseworker or, if available, a local document fraud expert

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

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

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

## Paediatrician reports

Although it is not currently Home Office policy to commission paediatrician reports, if a claimant submits a report written by a practising consultant paediatrician that concludes the claimant is or may be under 18 years of age at the time of the application, this must be fully considered alongside any other relevant evidence and given appropriate weight. However, care must be taken with such reports as the margin of error can be considerable and the reasons for the paediatrician's conclusion on age may not always be clear.

The Royal College of Paediatricians, in their guidance on age assessment, have said that in practice, age determination is extremely difficult to do with certainty because it is an inexact science where the margin of error can sometimes be as much as 5 years either side (['The health of refugee children: Guidelines for paediatricians'](#), Royal College of Paediatrics, chapter 5.6, November 1999). Any reports from paediatricians that purport to give an assessment of age within a narrower margin of error than the one set out in the Royal College's guidelines must be treated with caution.

Additionally, in assessing the relative weight to be given to reports by paediatricians, you must note the comments of Mr Justice Collins in the case of [A v London Borough of Croydon and Secretary of State for the Home Department \[2009\] EWHC 939](#). In particular, you must note the following findings:

- there are no reliable means whereby an exact conclusion can be reached on age (paragraph 7)
- the Home Office is entitled in law to prefer a social workers' assessment to that of a paediatrician and there is no error in law in doing so (paragraph 80)

Therefore, whilst reports from paediatricians must be considered and given appropriate weight, they do not generally attract any greater weight than a Merton compliant age assessment carried out by 2 trained social workers.

For further background information on considering the weight to be applied to a paediatrician report, refer to the European Asylum Support Office's (EASO's) guidance document: [EASO Age assessment practice in Europe](#).

If the local authority conducted an age assessment and was aware of the paediatrician report, Merton case law requires that this evidence is considered by the local authority as part of their assessment. If there is no evidence that the report was considered or the local authority was not aware of the report, the report must immediately be brought to the local authority's attention and, if the assessed age within the paediatrician report differs to the local authority's assessed age, they must be asked to consider this evidence and review their assessment.

## Dental age assessments or x-ray reports

Although it is not currently Home Office policy to commission dental age assessments or x-ray reports to inform an assessment of age, if a claimant submits a report this **must** be fully considered alongside any other relevant evidence and given appropriate weight.

When assessing the weight to be applied to scientific methods of age assessment, decision makers should keep in mind that these can only estimate age and as a consequence there will always be a margin for error ('[UNHCR observations on the use of age assessments in the identification of separated or unaccompanied children seeking asylum](#)', 1 June 2015). This includes medical examinations based on dental or wrist bone x-rays.

Where a claimant submits a report from a dental consultant based on a detailed assessment of dental development, the margin of error in determining age through this process is approximately plus or minus 2 years or less, for 95% of the population ('[The health of refugee children: guidelines for paediatricians](#)', Royal College of Paediatrics and Child Health, chapter 5.6.3, November 1999). In assessing the relative weight to be given to dental x-ray reports, you must also note the findings in the case of [ZM and SK v The London Borough of Croydon \[2016\] UKUT 559 \(IAC\)](#) and [AS v Kent County Council \[2017\] UKUT 446](#). In particular, you must note the following findings:

- evidence obtained by x-ray dental tomography may well be relevant to age assessment (tomography is a technique for displaying a representation of a cross section through a human body or other solid object using x-rays or ultrasound)
- the earlier a tomograph is taken, the more likely it is to offer useful information
- there is a variance in the achievement of dental maturity across different ethnic populations, therefore forensic age assessments based on population specific reference data will have greater accuracy
- you must be prepared to question the basis of opinions expressed in a report and be wary of accepting age assessments that appear to rely extensively on the reputation of the author rather than the detail, consistency and currency of the data
- you must beware of being misled into over-valuing statistical evidence in the context of a fact-finding exercise, including:
  - bear in mind the risks of error and consider whether in the case in question that risk is tolerable
  - be prepared to question the assumptions behind statistical calculations
  - ensure that the reference data set is valid
  - ensure that all factors capable of affecting the calculations have been taken into account

Great care must be taken when assessing what weight to attach to dental x-ray reports. If unsure about how to proceed or you are considering attaching little or no weight to the dental age assessment, you must seek guidance from a senior caseworker or officer. Having decided what weight, if any, to give to the dental age assessment, you must record clearly your reasons for doing so.

Similar care is required when considering assessments of bone age involving x-rays (most likely, of the hand) where variations can be caused by differences in the timing of the onset of puberty and the whole process of skeletal maturation, which may themselves be affected by illness, nutrition and ethnic variations. The child's medical, family and social history will therefore need to have been taken into account in any such assessments ([‘The health of refugee children: guidelines for paediatricians’](#), Royal College of Paediatrics and Child Health, chapter 5.6.1, November 1999). Even if compared to the relevant standard, x-rays correlate with the chronological age with a variation of at least plus or minus 2 years ([‘The assessment of age in undocumented migrants’](#), Sir Albert Aynsley-Green Kt., March 2011). It is however unlikely that assessments of bone age involving x-rays will be submitted due to not being part of age assessment practice in the UK.

For further background information on considering the weight to be applied to dental age assessments or x-ray reports, refer to the European Asylum Support Office's (EASO's) guidance document: [EASO Age assessment practice in Europe](#).

If the local authority conducted an age assessment and was aware of the dental age assessment or x-ray report, Merton case law requires that this evidence is considered by the local authority as part of their assessment. If there is no evidence that this report was considered or the local authority was not aware of the report, the report must be immediately brought to the local authority's attention and, if the

assessed age within the report differs to the local authority's assessed age, they must be asked to consider this evidence and review their assessment.

## **Age assessments by other member states**

Where it has been identified that a European Union (EU) member state has conducted an age assessment on a claimant whose claimed age is doubted by the Home Office, you should request that a copy of the age assessment is provided to the Home Office. There are currently no standardised processes for conducting age assessments within the EU, the weight to be assigned to age assessments conducted by other member states is not standardised and, therefore, must be judged on its individual merits in accordance with the guidance within this instruction.

### **Related content**

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# Weighing up conflicting evidence of age

This page provides the decision maker with guidance on considering conflicting evidence of age.

In the absence of documentary proof of age, it is Home Office policy to give prominence to a Merton compliant age assessment by a local authority and it is likely that in most cases the authority's decision will be determinative. However, all sources of information must be considered and an overall decision made in the round. Account may be taken of the overall credibility of the claimant, established for example through the asylum interview, though care must be taken in doing so (further guidance on assessing a child's credibility is provided in [Children's asylum claims](#)). The [Age assessment joint working guidance](#) must be referred to when considering conflicting evidence.

## Multiple local authority age assessments

Where a local authority has provided an age assessment, but subsequently submits a revised age assessment with a differing conclusion on age, the new assessment must be fully considered and the decision on age reviewed. When considering the weight to be applied to the revised assessment, it must be subject to no less than the level of scrutiny applied to the first assessment, in accordance with the guidance in [Local authority age assessments](#).

## Receipt of another age assessment from a different local authority

Sometimes claimants may undergo age assessments by more than one local authority, resulting in conflicting outcomes on age. This situation generally occurs when one local authority decides the claimant is an adult and the claimant then moves address and approaches another local authority in that area for support. In these circumstances, the second local authority must be asked to confirm whether it has considered the findings of the first local authority's assessment.

Deciding whether to accept the second local authority's assessment depends on all the evidence in the case and, in particular, the reasons why the second local authority has departed from the first assessment (for example, if new evidence has come to light which was not known by the other local authority when it carried out the first assessment). The reasons must be recorded on CID.

When considering the weight to be applied to the second assessment, it must be subject to no less than the level of scrutiny applied to the first assessment, in accordance with the guidance in [Local authority age assessments](#).

## New relevant evidence received post age decision

You will normally need to review a decision on age if you later receive relevant new evidence (including in the grounds of an appeal). Where the original decision on the claimant's age was based on a local authority assessment, the local authority must normally be made aware of the new evidence and be invited to review their earlier decision. You must consider the local authority's view before you reconsider the decision on age.

If appropriate, the original decision must be administratively withdrawn, and a fresh decision issued.

### Related content

[Contents](#)

# Implementing the decision on age

This page tells the decision maker about implementing the Home Office's decision on the claimant's age.

## Claimant is found to be a child

You must complete and issue a 'Confirm accepted as a child' letter (ASL.2382). If the claimant was accepted to be a child but not the claimed age, the reasons for not accepting their claimed age should be detailed in the letter. The letter must be served on the local authority, on the claimant's legal representative or, if the claimant is not represented, on the claimant, and one copy placed on file.

Depending on the progression of the child's asylum case, if previously treated as an adult they may have been excluded from a number of child specific asylum processes and safeguards, for example:

- they may not have submitted a Statement of Evidence Form
- a legal representative is much more likely to be in attendance at children's asylum interviews than would be the case for adults
- the interviewing officer may not have been trained in interviewing children
- the child will not have been interviewed in a manner suitable for children
- a responsible adult would have been absent from the asylum interview

If the claimant was previously interviewed as an adult, ASL.2382 provides the claimant with the option of withdrawing their original interview record. This is because [paragraphs 352 and 352ZA of the Immigration Rules](#) state that children who are interviewed about the substance of their asylum claim must have a responsible adult present. If the claimant opts for their original interview record to be withdrawn, a new substantive interview must be arranged with a caseworker trained in interviewing children and with a responsible adult present. For further guidance on substantive interviews for children, refer to Children's asylum claims.

If the claimant chooses to withdraw the first interview record, but you notice discrepancies between what the child said in the first interview and what is stated during the second interview, these discrepancies should be explored further. The child must be allowed to explain the discrepancy (if this occurs during the second interview, this must of course be in the presence of a responsible adult). You must then consider very carefully what weight must be attached in light of the claimant's explanation and the circumstances in which the information was provided during the first interview. These circumstances include, but are not limited to, the age and maturity of the claimant and effects of their exclusion from child specific asylum processes and safeguards.

In addition, the Refugee Council's Panel of Advisers **must** be informed that the claimant is now accepted to be a child. For further guidance on the Refugee Council's Panel of Advisers refer to Children's asylum claims.

A copy of these letters must be placed on file and the case information database (CID) must be updated to show that this has been done.

## Claimant is found to be an adult

When a decision is taken to treat a claimant as 18 years of age or over, the claim will be handled from then onwards according to the general policy and processes for adult claimants. You must:

- complete form ASL.3596 (also known as BP7), which sets out the reasons why the claimant's claimed age cannot be accepted, and hold the form on file
- complete and issue letter IS.97M, while taking account of the following:
  - this must be served on the local authority, on the claimant's legal representative or, if the claimant is not represented, on the claimant, and one copy placed on file
  - if the Home Office's assessment of age involved considering and applying weight to multiple sources of conflicting information, the reasons for favouring one source of information above another should be detailed in the IS.97M

## Statement of evidence form (SEF)

If the claimant is subsequently found to be an adult, but a SEF (ASL.1957), which was issued to the claimant while they were provisionally treated as a child pending a final decision on their age, has already been received prior to a decision being made on the asylum claim, the SEF must be considered together with the evidence obtained at interview. If a SEF was issued, but not as yet completed and returned by the claimant, there is no obligation to wait for the SEF before a decision is made on the asylum claim.

## Updating the Case Information Database

It is important that any changes to the claimant's date of birth are accurately recorded on CID, as this will affect not only how the claim is processed but also has implications for any local authority funding provided by the Home Office for the provision of support to Looked After Children.

Once the claimant's age is no longer in doubt, the following actions must be completed on CID:

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**Official – sensitive: start of section**

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

## Official – sensitive: end of section

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5. Replace the estimated or claimed date of birth on the personal details screen with the assessed date of birth (if different).
6. A note must be made of the estimated date of birth on the notes screen, including when it was used.
7. A note must be made to show that the National Asylum Allocation Unit (NAAU) has been informed of the outcome of the age assessment.
8. If the claimant is now accepted as a child, the relevant special condition must be updated to show that the claimant is an unaccompanied or accompanied child.
9. Click on 'Case Details'.
10. Click on 'Admin Events'.
11. In the 'Date' field enter the age dispute outcome date.
12. In the next field 'Event Type' select the correct age dispute outcome type - see [Event type outcome list and corresponding CID notes](#).
13. Enter additional information in CID notes – see [Event type outcome list and corresponding CID notes](#).
14. Save changes and exit.

## Event type outcome list and corresponding CID notes

Admin events and CID notes must be noted for all cases as outlined below:

Event type	Instruction
Age Dispute Outcome – Case law compliant age assessment <b>under</b> 18  Or  Age Dispute Outcome – Case law compliant age assessment <b>over</b> 18	This event type is to record the outcome after receipt of a local authority age assessment.  CID notes must be updated with information confirming: <ul style="list-style-type: none"><li>• that the age assessment is case law compliant</li><li>• when the age assessment information was received</li><li>• the local authority contact</li><li>• that after considering the assessment alongside other relevant information available, the Home Office has decided to agree the assessment</li></ul>
Age Dispute Outcome - Documentary evidence of age accepted <b>under</b> 18  Or	This event type is to record the receipt of documentary evidence which has been accepted as proof that the claimant's age is <b>under</b> or <b>over</b> 18.

Event type	Instruction
Age Dispute Outcome - Documentary evidence of age accepted <b>over</b> 18	CID notes must be updated to confirm what evidence was received and why this has been accepted.
Age Dispute Outcome – Legal challenge accepted <b>under</b> 18  Or  Age Dispute Outcome – Legal challenge accepted <b>over</b> 18	This event type is to record cases where, following a legal challenge (for example, appeal or judicial review) the age is accepted by the Home Office.  CID notes must be updated.
Age Dispute Outcome - Significantly over 18, countersignature authority obtained & IS97M served	This event type is to record cases where the Home Office has assessed that the claimant is an adult as their physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age.  CID must be updated with confirmation why it has been agreed to treat the claimant as significantly over 18 and note who the assessing officer and countersigning officer were.
Age dispute outcome – claimed age accepted after consulting local authority	This event type is to record cases where the Home Office doubted the claimant’s claimed age but: <ul style="list-style-type: none"> <li>• the local authority has confirmed in writing that they will not be undertaking a Merton compliant age assessment as they have accepted the claimed age</li> <li>• after a careful consideration of the case, including any relevant information, the decision maker has given them the benefit of the doubt and accepted their claimed age</li> </ul> CID must be updated explaining why the claimed age has been accepted.

## Provision of support

Guidance on eligibility to local authority or asylum support following the decision on age.

## Claimant assessed to be an adult

If the claimant is assessed to be an adult, they will cease to be eligible for support from the local authority under section 17 and 20 of the [Children Act 1989](#). Though the claimant is not eligible for this support, they may be eligible for asylum support, administered by the Home Office, under [section 95 of the Immigration and Asylum Act 1999](#), provided they:

- are ineligible for leaving care support under sections 23C-E and 24 of the Children Act
- would be otherwise destitute
- meet the other specific eligibility requirements

In such cases liaison between the Home Office and the local authority on the arrangements will usually be necessary and National Asylum Allocation Unit (NAAU) must be informed by email. CID notes must be updated to show that NAAU has been informed of the outcome of the age assessment.

Refer to Asylum support for further guidance on section 95 support.

## Claimant assessed to be a child

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

There may be occasions where the local authority does not agree with the Home Office's view that a claimant is a child and therefore declines to accept them into its children's services. In these cases, you **must** not terminate the claimant's asylum support before:

- seeking guidance from a senior caseworker
- discussions with the local authority to resolve the disagreement have taken place - for further guidance refer to [Sharing evidence of age and joint working with local authorities](#)

For further information on discontinuing section 95 support, refer to Ceasing asylum support.

### Related content

[Contents](#)

# Appeals and judicial reviews

This page tells decision makers or presenting officers, about the actions to take at the appeal stage in cases where the claimant's age was disputed by the Home Office.

## Submitting evidence of age at appeal

All available evidence of age must be submitted to the First-tier Tribunal in the appeal bundle, for consideration by the immigration judge at the appeal hearing. The immigration judge will often make a determination in respect of the appellant's age, which will form part of the overall appeal determination. If a local authority age assessment was conducted, it is important that the judge can assess the local authority's reasoning and can therefore see the full report. If, prior to the case management review (CMR), a local authority age assessment has been conducted but the Home Office does not have a copy of the age assessment report, even if the Home Office is in possession of an [age assessment information sharing form](#), the decision maker or presenting officer must request a copy of the assessment report. Refer to [Local authority age assessment disputed by the child](#) for guidance on obtaining the assessment report at the appeal stage.

For further guidance on appeal preparation, refer to:

- the Presenting Officer's (PO) Manual
- Prepare appeal
- Appeals bundling
- Substantive appeal hearings

## Conducting the appeal hearing

In addition to the guidance below, you must refer to the Presenting Officer Manual, section 5 'Local authority age assessments' and section 8 'Weighing up conflicting evidence of age'.

At the appeal hearing it must be highlighted that while there was doubt over whether the claimant was a child or an adult, asylum decisions will have been made under the same procedures used for children, and that the claimant was interviewed in line with child guidelines. The court must also be made aware if, in a material respect, appropriate child procedures were not followed.

If a local authority age assessment was conducted, an age assessment report should have been obtained by the date of the hearing. Where it cannot be obtained, you (the presenting officer) must:

- draw this to the attention of the judge
- fully explain its absence
- investigate the claimant's account of why the report has not been submitted through sensitive cross-examination, if necessary



This applies particularly where the appellant is seeking to persuade the Tribunal that they are a child.

In making submissions about the weight to be given to an appellant's claim to be a child in circumstances where they have not disclosed the local authority's age assessment report, presenting officers may find it useful to note the comments of the judge in the case of [The Queen on the application of \(1\)M \(2\) A and \(1\) London Borough of Lambeth and \(2\) London Borough of Croydon in 2008](#), particularly at paragraph 157:

“it is apparent that the AIT was kept in ignorance of the 2-hour assessment of M by Lambeth social workers in which they, well versed in assessing the ages of young persons, came to an opposite conclusion. I find this omission concerning. The SSHD may well not have known of Lambeth's assessment done on 14 December 2006. But M did, and so must his solicitors acting for him in the judicial review proceedings begun on 13 March 2007. Whether M's solicitors acting for him in his immigration appeal knew of Lambeth's age assessment is unknown. But M knew. Whether he told his immigration solicitors is unknown. I have no doubt that if Mr. Adler, M's counsel before the Immigration Judge, had known of it, he would have so informed the AIT. However, the fact remains that the Immigration Judge put some, possibly critical, reliance upon the absence of a social services assessment.”

## Case law compliance of a historical age assessment

In [ZS \(Afghanistan\) v Secretary of State for the Home Department \[2015\] EWCA Civ 1137](#), at paragraph 39, the court of appeal found that in cases where a claimant is challenging whether a historical age assessment was Merton compliant, this must be judged by the standard at the time the assessment was conducted. Additionally, it would not be correct if an assessment which was compliant at the time it was conducted, and relied upon as such, becomes non-compliant for the purposes of the policy as a result of later judicial determinations.

## Burden of proof at the appeal stage

In [Rawofi \(\[2012\] UKUT 00197 \(IAC\)\)](#) the Upper Tribunal found that where age is disputed in the context of an asylum appeal before the Tribunal (in contrast to age assessment in judicial review proceedings), as with other asylum cases before the Tribunal:

- the burden is on the appellant
- the standard of proof is the lower standard - the 'reasonable degree of likelihood'

In age assessment judicial review proceedings, there is no burden of proof on either party and the Court's task is to decide the issue on the 'balance of probability' in light of all the evidence.

For further guidance on the balance of proof at the appeal stage, refer to Assessing credibility and refugee status.

**Related content**

[Contents](#)

# Judicial findings on age

This page tells decision makers about the actions to take in the event a court makes a finding on age.

## Immigration tribunals

If during the determination of an asylum appeal the immigration judge finds the appellant to be a child, the Home Office will accept this outcome in most cases, and proceed to treat the claimant as a child.

You cannot normally expect to depart from the immigration judge's determination on age unless that decision is successfully appealed. You would normally consider such a judicial determination as credible and clear documentary evidence of age. Strong evidence is required to appeal, for example which indicates that the immigration judge has not given due weight to important information. However, where there is no appeal against the immigration judge's determination, there may be limited circumstances when the Home Office is not inevitably bound by such a finding, such as where there are outstanding decisions which depend on age but on which the immigration judge has not directly adjudicated. In such cases the Home Office must give appropriate weight to the immigration judge's consideration of age, and must have a **sound and rational** reason to depart from it. For example, where it is established that the immigration judge did not have before them, a full and detailed local authority age assessment report that concludes the appellant to be an adult, it may be possible to adopt the findings of the assessment.

Before a decision is made to depart from the immigration judge's finding on age, you **must**:

- consider sections 5 ('What actions must be taken when information relevant to age emerges after a decision on age has been taken?') and 6.3 ('Dispute between the young person and the LA, and determination of age by the courts') of the Age Assessment Joint Working Guidance
- liaise with your senior caseworker

If appropriate, advice can also be sought from Asylum Policy.

## Discussing the immigration judge's findings with the local authority

Where an immigration judge finds the claimant is a child and, on the particular facts of the case, the Home Office intends to give effect to the decision, it is essential that:

- the matter is first discussed with the local authority
- the Home Office's reasoning for accepting the immigration judge's decision must be put in writing to the local authority.

This approach:

- gives the local authority the chance to provide any new, relevant evidence to the Home Office
- ensures that the local authority is made aware of the tribunal's finding on age
- gives the local authority the opportunity to reconsider their assessment (if applicable)

The local authority must be asked to confirm **in writing** whether, in light of the immigration judge's finding, it proposes to accept the claimant as a child and its reasoning.

The local authority is not bound by a finding of fact by the First -tier Tribunal as to the age of a claimant (see [R on the application of PM v Hertfordshire County Council \[2010\] EWHC 2056 \(Admin\)](#)). However, in light of the tribunal's determination, if the local authority has conducted an age assessment, they would be expected to reassess the claimant, ensuring that they:

- take into account any new evidence, including evidence presented at the tribunal that was not previously before them
- give due respect to the basis and reasoning of the immigration judge's finding

If the local authority has good reason not to accept the immigration judge's decision on age, consideration must be given to appealing the tribunal's decision. However, you need to be mindful that the deadline for appealing a determination is 14 days after it was received. An out of time appeal is very unlikely to be granted permission.

Whilst these discussions with the local authority are taking place, you must notify the claimant and their legal representative that the local authority is currently considering the immigration judge's findings and whether or not to amend their decision on age.

Section 5 ('What actions must be taken when information relevant to age emerges after a decision on age has been taken?') and 6.3 ('Dispute between the young person and the LA, and determination of age by the courts') of the Age assessment joint working guidance must be referred to.

## Judicial review findings on age

An age assessment decision by a local authority on age can be subject to judicial review if the individual concerned challenges that decision. [R \(A\) v London Borough of Croydon, R \(M\) v London Borough of Lambeth \[2009\] UKSC 8](#) addressed the approach which will be taken by the court in such circumstances. If there is a dispute between the young person and the local authority on the issue of whether the person is a child, then the courts – in exercising their judicial review function – may make a declaration as to the individual's age.

A declaration by the court as to the individual's age should be considered as credible and clear documentary evidence of age.

## Criminal Court findings on age

Individuals previously sentenced by the criminal courts as an adult must be treated as over 18 years of age unless there is credible evidence to support their claim to be a child.

In non-immigration detained cases, if the claimant subsequently contests the Home Office determination of adult status, you must inform them that they can approach their local authority for an assessment as a possible child in need. If the claimant is in immigration detention, you should refer to paragraphs 28 to 30 of Detention Services Order 14/2012 'Care and management of age dispute cases in the detention estate' for further information.

### Related content

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# Sharing evidence of age and joint working with local authorities

This page provides decision makers with information on sharing information with local authorities during the age assessment process.

The Home Office is required to make decisions on age for immigration purposes and local authorities make similar decisions for the purposes of assessing eligibility to children's support services. You **must** liaise closely and share information relevant to the claimant's age with local authorities.

Guidance on working with local authorities, including information sharing requirements is provided within the Age assessment joint working guidance. It is important that this guidance is followed.

If a claimant has approached their local authority for an assessment as a possible child in need after the Home Office has assessed them as being significantly over 18 years of age, as soon as a notification of this approach is received from the local authority, you must:

- ensure that the local authority is notified that the Home Office has assessed the claimant as significantly over 18
- provide the local authority with the reasons and any supporting evidence for why this assessment was made

For guidance on the actions to take when an immigration judge makes a finding on age and when and how these must be discussed with the local authority, refer to [Appeals and judicial reviews](#).

## Related content

[Contents](#)

# Asylum credibility inference

This page provides decision makers with guidance on taking in to account asylum credibility issues raised in the age assessment process.

## Asylum credibility issues raised in the local authority age assessment

The Home Office does not request local authority age assessment reports or [age assessment information sharing pro forma](#) to assess the credibility of a claimant's asylum claim. However, you must consider all evidence provided when making a decision on the asylum claim. When considering the weight to be applied to this evidence, in addition to considering the age, maturity and understanding of the child, it is important to note that:

- the information is based on notes, rather than a verbatim record
- the information has been collected for age assessment purposes by a social worker, as opposed to asylum purposes by a trained decision maker
- the assessment will not have the same procedural safeguards in place as there would be at asylum interviews
- a legal representative will not have been present

If information contained raises credibility issues around the claimant's asylum claim, before any further action is taken you must consider if the potential credibility issue goes to the core of the claim or could alter the outcome.

If it is considered appropriate to raise a credibility issue identified, before a finding is made, it must be put to the claimant and they must be given the opportunity to explain or clarify the discrepancy in question. This should be done through the child's legal representative. If the claimant has been assessed as a child and the credibility issue is put to them in person, this must be done in the presence of a responsible adult and their legal representative.

## Asylum credibility implications from an adverse age assessment decision

After a decision has been made by the Home Office that the age provided by the claimant was incorrect, when considering whether this negatively impacts on the credibility of the claim for asylum, or eligibility for other forms of leave, from their provision of an incorrect age, it is important to note that:

- no single assessment technique, or combination of techniques, is likely to determine a claimant's age with precision
- there are a number of potential reasons for the provision of an incorrect age and it cannot be automatically assumed that their motivation was to obtain leave through deception - for example, there may be mitigating circumstances, such as not being sure of their age

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# Detention

This page provides the decision maker, with guidance on the detention of claimants whose claim to be a child is disputed by the Home Office.

For general guidance on detention in age dispute cases, refer to:

- Detention – general guidance
- Detention Services Order 14/2012 ‘Care and management of age dispute cases in the detention estate’

If a claimant is detained, but a court later finds, or the Home Office later accepts that the claimant we have treated as an adult was a child, then any period of detention whilst that person was in fact a child which was not in line with the restrictions in [paragraph 18B of schedule 2 to the Immigration Act 1971](#) will be unlawful. This is the case even if it was reasonably believed that the individual was an adult, and may well result in the Home Office being liable for a claim of unlawful detention and required to pay damages. Such a period of detention can also have a significant and negative impact on a child’s health and development, and therefore the use of detention in respect of unaccompanied children must be restricted to the very few circumstances in which its use is permitted. As such, the threshold for individuals to enter, or remain, in detention following a claim to be a child is high and caution must be exercised in favour of avoiding any unlawful detention.

Refer to the introduction of [Initial age assessment](#) for information on the very significant consequences of failing to adhere to the legal powers and policy on detaining children.

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# Accompanied doubtful age cases

In some doubtful age cases, the claimant will not be 'unaccompanied' - for example, because they are living with relatives. In these cases, the local authority must also be made aware that the Home Office has disputed the claimant's age and request that, subject to the local authority's agreement, they either:

- undertake an age assessment
- if appropriate, provide confirmation that they have accepted the claimed age and are therefore of the opinion that an age assessment is not required, and provide the reasons for doing so

For guidance on cases where a local authority has accepted the claimed age without conducting an age assessment, refer to [Local authority has accepted the claimed age without conducting an age assessment](#).

Even if the Home Office has disputed the claimant's age, there is no legal obligation on the local authority to conduct an age assessment in this scenario, unless the local authority is asked to provide services under the Children Act 1989 and doubts the claimed age.

If the local authority declines to undertake an age assessment, you should consider whether a decision on age can be made using other available evidence of age, such as those referred to in [Other evidence of age](#). In addition, decision makers should consider whether it is appropriate to ask the claimant to provide:

- evidence from their school confirming which academic year they are in
- evidence from their general practitioner (GP) confirming the date of birth recorded in their registration details

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# Glossary

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

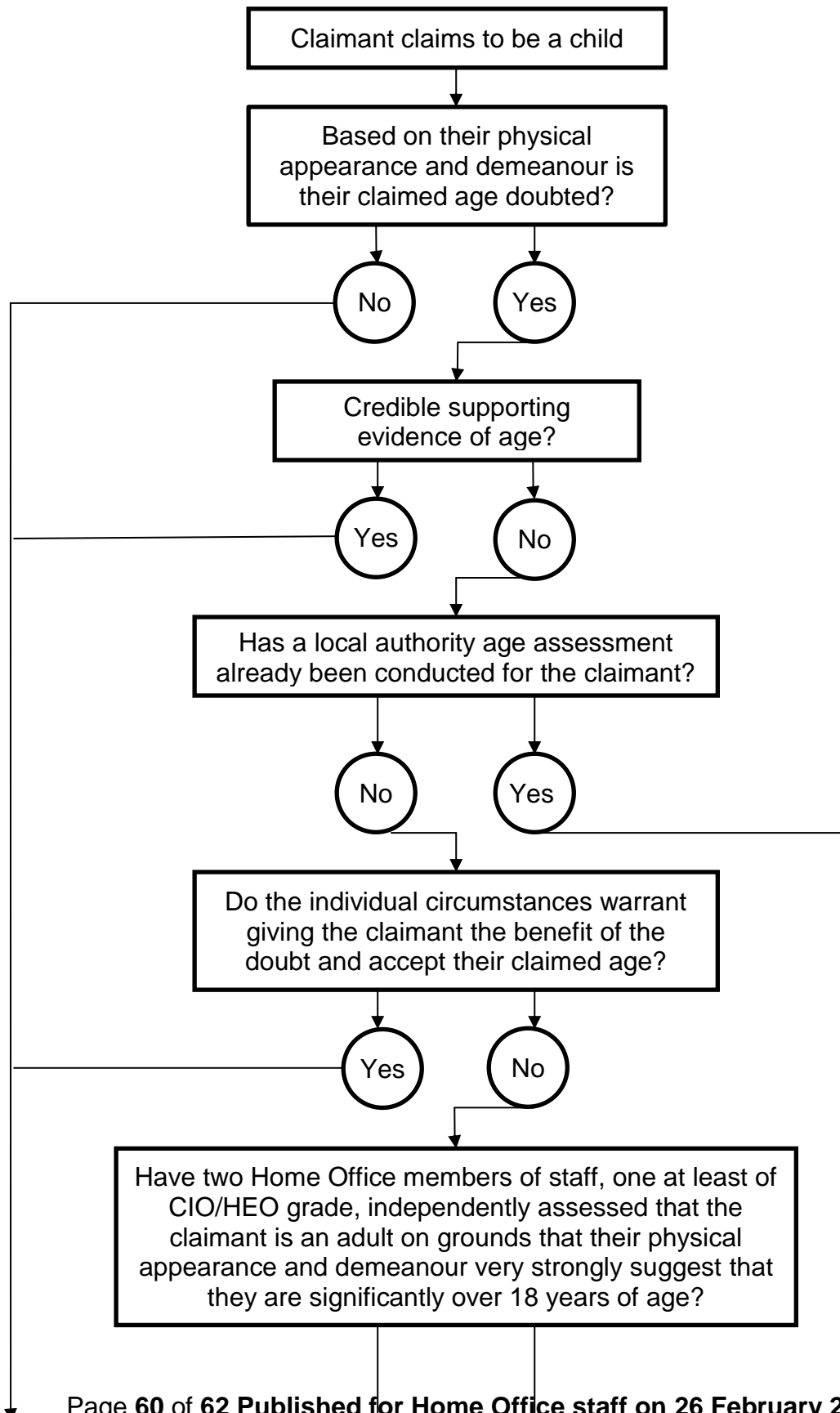
Term	Definition
Accompanied asylum seeking child (AASC)	An AASC is a child who is applying for asylum in their own right and either: <ul style="list-style-type: none"><li>• forms part of a family group</li><li>• is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement</li></ul>
Child	A person under the age of 18 years (this is defined in the <a href="#">UN Convention on the Rights of the Child</a> and <a href="#">section 55 of the Borders, Citizenship and Immigration Act 2009</a> ).
Merton compliant age assessment	A local authority 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.
Unaccompanied asylum seeking child (UASC)	A UASC is a child who is: <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>

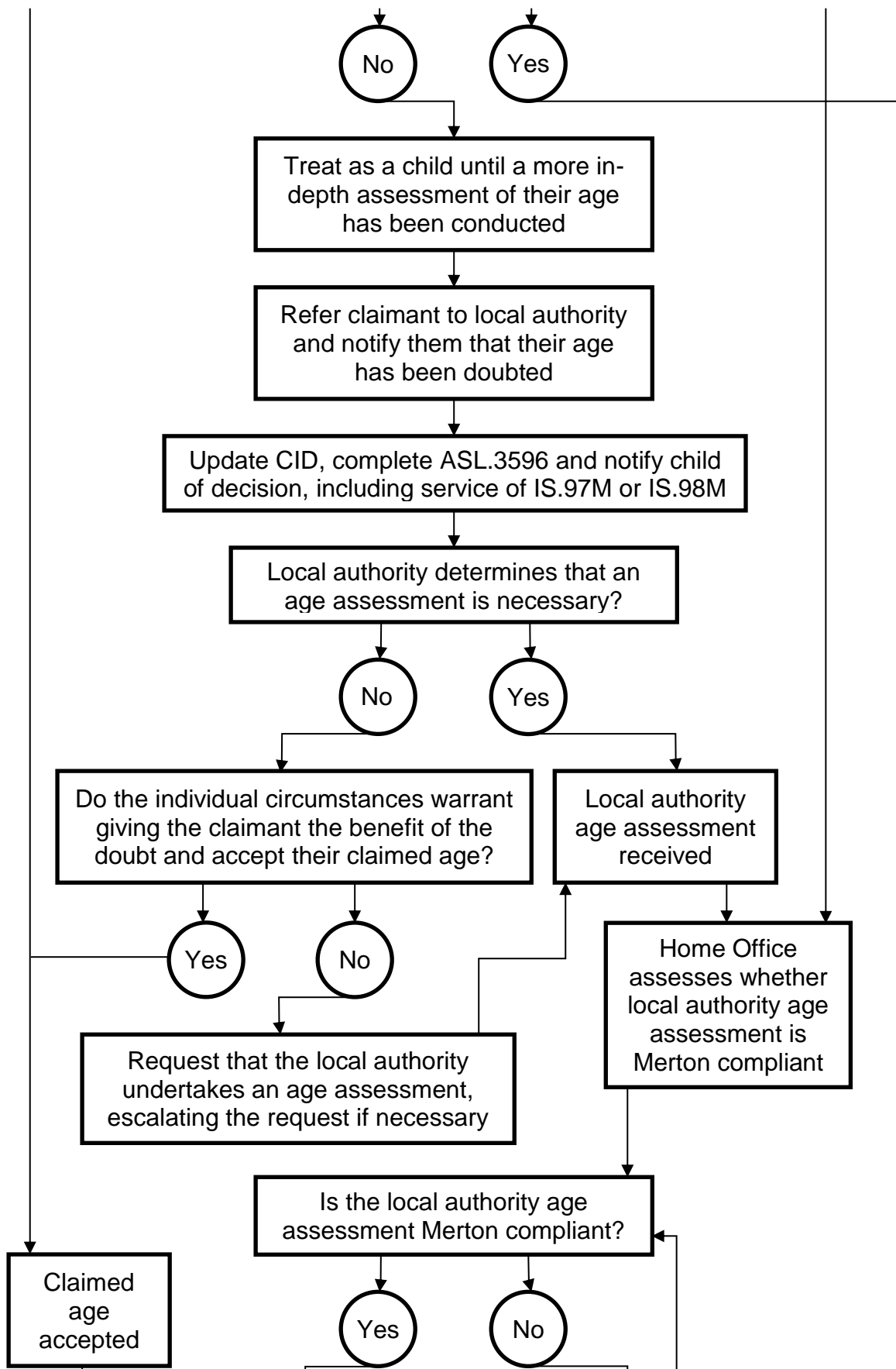
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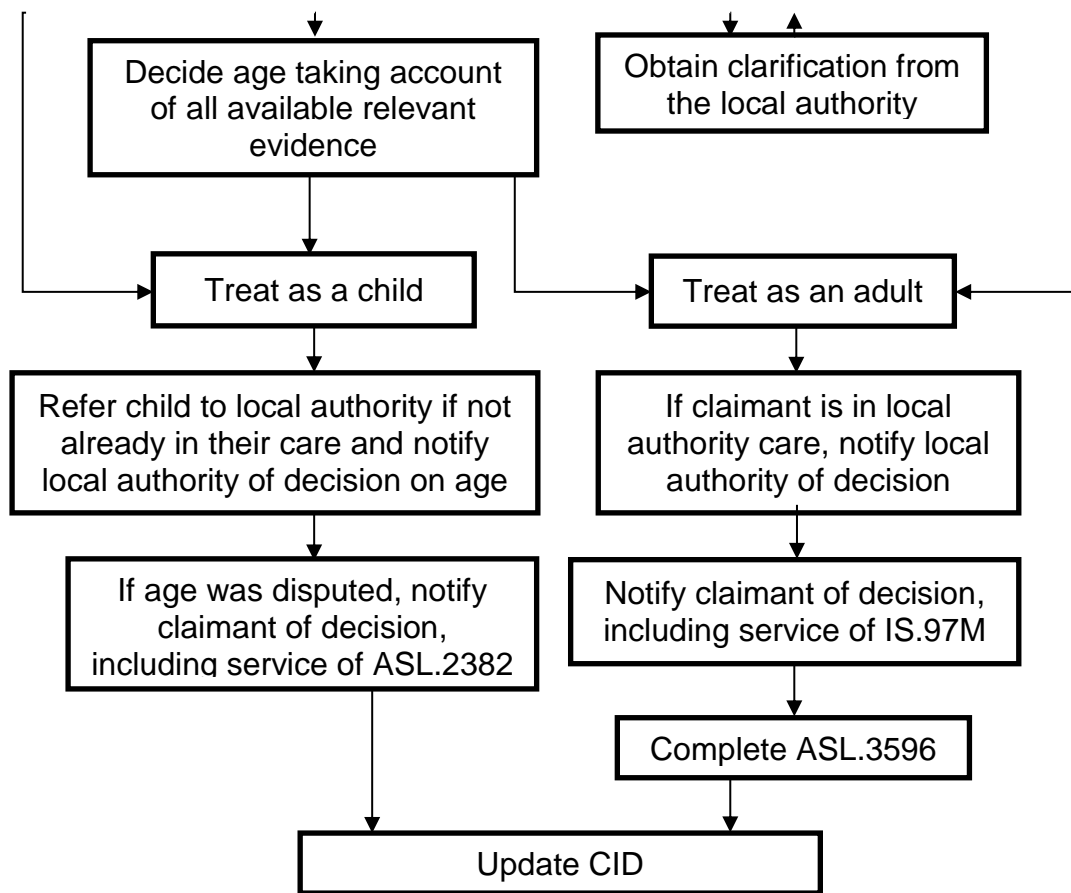
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# Flow chart

This page contains a flow chart of the age assessment process.







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