

AGE ASSESSMENT

JOINT WORKING PROTOCOL

BETWEEN

IMMIGRATION AND NATIONALITY DIRECTORATE
OF THE HOME OFFICE (IND)

AND

ASSOCIATION OF DIRECTORS
OF SOCIAL SERVICES (ADSS)

*For UK Local Government and
Statutory Childcare Agencies*

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

AGE ASSESSMENT JOINT WORKING PROTOCOL

1. Purpose of the Document

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

- The Immigration and Nationality Directorate of the Home Office (IND)
- and**
- UK Local Authorities and Statutory Child Care Agencies (referred to as LAs).

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

2. Introduction

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

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

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

3. Situations where age assessment may be required

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

- Not all countries and cultures attach the same importance to chronological age, and birth records are therefore afforded less importance.
- Recording conventions and calendars are different in other countries and may not be easily reconciled with UK systems.
- Adults may wish to avail themselves of asylum processes and support arrangements made for children, as these are perceived to be more favourable.

- With other children there may be a need to assess their age for protection or care reasons e.g. Traffickers may present young people as older or younger in order to avoid immigration controls or social services checks.

4. Partners to the Protocol

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

It is important to recognise that while IND has specific legal powers to look into and determine age, LAs do not. Their duty is to discover and assess children in need in their area. It is only as part of that assessment process that the question of age may be considered by a social worker.

5. Principles

There should be:

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

and

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

6. Aims

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

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

7. Outcomes

- Clear and agreed determinations on whether asylum applicants and other migrant children are over or under 18 years of age, where their age is not known or is disputed by a partner agency.

- To agree appropriate adjustments of the age of UASC or other children from abroad accepted as being under 18, where the DOB is not known or is found to be incorrect at assessment.

8. Information Sharing

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

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

IND can contact the named social worker, who carried out the assessment to discuss any concerns about the assessment and its outcome. In particular cases, for example where a change of age may cause a review of immigration decisions already taken, there may be a clear need to share the full LA assessment with IND. Where asylum or grant of leave decisions have been made, the re-assessment may mean that the basis for the decision or “grant of leave” is no longer valid. A full written assessment from the LA will be necessary to review the applicant’s leave to remain in the UK.

9. Process

10. Where IND is first agency contacted by an applicant claiming to be a UASC,

- IND apply their age determination policy and process in all cases.
- Where IND determine that the applicant is to be treated as a child the applicant should be referred to the appropriate LA if IND can find no suitable adult prepared to care for and protect them. (Referral process below).
- Where IND determine that the applicant, claiming to be a UASC, is an adult they will be informed of this decision (and the reasons for it) and the right to apply to NASS for support. They will also be given a Notice of Age Dispute stock letter (ACD.1162 or IS97m) which will inform them of their right to approach a LA social services department (SSD) for an assessment as a possible child in need. (The letter states that the issue of their age will be separately assessed by the SSD).
- If the applicant contests an IND determination of adult status, the IND officer will inform them verbally of their right to approach a LA for an assessment as a possible child in need. As stated above, the IND Notice of Age Dispute will also contain this information (referral process below).
- If an applicant, determined to be an adult, submits further evidence to IND or otherwise continues to dispute the age determination, IND will seek to involve the relevant LA as part of any review of their decision. (See Section 4 below).
- IND will refer all age disputed cases to the Refugee Council Panel of Advisers.

- g. Where IND determine that an applicant is to be treated as a child and refer them to the appropriate LA, that LA will conduct a child in need assessment of the applicant. If the LA accepts that the applicant is a child in need of their services they will notify IND via the CPC on the same day. If on the other hand the LA assesses the applicant to be an adult they will inform IND as soon as possible. On notification IND will review their decision in the light of the findings of the assessment and amend their records appropriately. In the event that they do not accept the LA assessment, any differences will be dealt with according to the procedures set out in this protocol.
- h. Notification will be on an agreed proforma and via agreed channels only to reduce the opportunities for miscommunication or fraud.
- i. Where IND determine that an applicant is an adult and the LA supports the IND age determination of adult status, the LA will ensure that the applicant is aware of the need to make an immediate approach to NASS who will decide whether they are eligible for support.

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

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

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

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

- a. The LA will assess the age of the applicant and immediately inform IND of the outcome via the central point of contact and on the agreed proforma. (The procedures for informing the applicant are a matter for LA guidance.)

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

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

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

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

- a. The agency wishing to effect a change will notify partner agencies through the CPC.
- b. If the asylum seeker is currently classified as a child the LA will conduct a re-assessment and send a full written assessment to inform IND within 7 days. In some case the LA will find out through the CPC that legally binding decisions and grants of leave have been made by IND. In these circumstances a full written assessment of the reasons for changing the age is required.
- c. If the asylum seeker is currently classified as an adult they might submit evidence to NASS or IND which IND accepts as proof that they are a child. In such a case IND will refer the applicant to the relevant LA and continue to provide interim support pending the outcome of the LA assessment provided it is completed within 7 days. If the LA assesses the asylum seeker, to be a child, then a prompt date for the applicant to transfer to LA support, not more than 7 days from the outcome of the assessment must be agreed.

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

14. Conflicting assessments

a) Between IND and a LA

In many cases it is likely that IND's assessment will be consistent with that of the LA. In some cases IND's assessment will differ from that of the LA; for example if IND believe that specific evidence, e.g. a document, has not been

sufficiently taken into account or there are concerns that the person presenting to IND is not the same person as seen by the LA.

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

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

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

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

b) Conflicting LA assessments

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

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

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

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

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

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

15. Reasons for Establishing Formal Contact Arrangements

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

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

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

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

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

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

16. Recording (yet to be agreed)

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

Reconciliation of Records

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

In the event that a LA decides to treat an age disputed case as a child and proper notification is not provided the discrepancy may not be discovered until

IND check the LA datamatching returns. In these circumstances the LA will not be able to claim UASC grant for the individual until IND has been properly notified of the assessment appropriately. IND will issue amended documentation within 7 days of accepting a change, with a copy/notification to the responsible LA. UASC grant can be claimed from the date that IND acceptance of change is received by the LA.

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

17. Additional Guidance on LA referral processes.

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

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

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

Other voluntary arrangements made between LAs on referral mechanisms

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

The child is aged 16 or 17

S/he has no discernible urgent needs

S/he has no known address

S/he is not accompanied by a legal representative.

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

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

18. NEGOTIATED BY

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19. DRAFTED BY

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