



Home Office

Detention Services Order 02/2019

Care and management of Post Detention Age claims

January 2022



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Document Details

Process: To provide instructions and guidance for Home Office staff and suppliers operating in the immigration detention estate on the correct process for dealing with individuals claiming to be under 18.

Implementation Date: August 2019 (re-issued January 2022)

Review Date: January 2024

Version: 2.0

Contains Mandatory Instructions

For Action: All Home Office staff and suppliers operating in immigration removal centres, short-term holding facilities and pre-departure accommodation, including Detention and Escorting Services (DES) Compliance Teams, Detention Engagement Teams (DET) and UK Visas and Immigration staff.

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Processes Affected: This DSO sets out instructions on the care and management of individuals claiming to be under 18.

Assumptions: All staff will have the necessary knowledge to follow these procedures.

Notes: This DSO replaces DSO 14/2012 version 1.0

Introduction

1. This instruction sets out the policy and procedures to follow where an immigration detained individual under escort or in an immigration removal centre (IRC), short-term holding facilities and pre-departure accommodation claims to be under 18 years old but there is a lack of physical or definitive documentary evidence to prove this is the case.
2. Two different Home Office teams operate in IRCs:
 - Detention and Escorting Services Compliance team (Compliance team)
 - Immigration Enforcement Detention Engagement team (DET)

The **Compliance team** are responsible for all on-site commercial and contract monitoring work. The **DETs** interact with detained individuals face-to-face on behalf of responsible officers within the IRCs. They focus on communicating and engaging with people detained at IRCs, helping them to understand their cases and detention.

There are no DETs at residential STHFs, functions which are the responsibility of the DET in RSTHFs are carried out by the supplier and overseen by the Escorting Contract Monitoring Team (ECMT).

Policy

3. This Detention Services Order is aligned with instructions provided in the published guidance entitled "Detention: General instructions" and is designed to ensure that all staff, both Home Office and suppliers, are aware of the procedures to be followed when the age of a person in our care is disputed.
4. It is important that at the point of detention the immigration officer authorising detention is clear as to whether a child or an adult is involved. The detention of children is subject to strict restrictions set out in paragraph 18B of Schedule 2 to the [Immigration Act 1971](#) as to the period for which they may be detained, and the type of detention facility which may be used. Therefore, in order to comply with these restrictions, the detaining officer must be certain that he is dealing with an adult.
5. If an individual is treated as an adult and detained on that basis, they may bring a legal challenge against the decision to detain. If a court later finds, or the Home Office later accepts that an individual who has been treated as an adult was, in fact, a child at the time, then any period of detention not in line with the restrictions in paragraph 18B of Schedule 2 to the [Immigration Act 1971](#) will have been unlawful and damages may result.

Definitions

6. Documentary evidence is an original, genuine document such as a passport, birth certificate or other official documentation which confirms a person's identity.
7. A Merton compliant age assessment is a social worker age assessment conducted according to the criteria established by the Merton judgement¹.

Child

8. For the purposes of this instruction the Home Office defines a child as a person who has:
 - a) Credible and clear documentary evidence to demonstrate that he or she is under 18 years of age; or
 - b) Has been subject to a Merton compliant age assessment which concluded that they are under 18 years of age, which has been accepted by the Home Office, irrespective of their physical appearance and demeanour.

Adult

9. For the purposes of this instruction the Home Office defines an adult as a person who has:
 - a) Credible and clear documentary evidence that they are 18 years of age or over; or
 - b) Been subject to a Merton compliant age assessment and been assessed to be 18 years of age or over (note that assessments completed by social services' emergency duty teams are not acceptable, with the potential exception of cases where the social worker considers that it is very obvious that the claimant is over 18 and that prolonged inquiry (a comprehensive Merton age assessment) is not required – see the [Assessing age asylum instruction](#) for further details on when shorter Merton compliant assessments are permissible); or
 - c) Two Home Office members of staff (one of at least CIO or HEO grade, or equivalent) have separately assessed that the individual is an adult because their physical appearance and demeanour very strongly suggests they are significantly over 18 years of age and no other credible evidence exists to the contrary; or
 - d) Prior to detention gave a date of birth that would make them an adult and/or stated they were an adult; and

¹ B v London Borough of Merton [2003] EWHC 1689 (Admin)

- i. Only claimed to be a child **after** a decision had been taken on their asylum claim, entry to the UK or immigration status; and
- ii. Only claimed to be a child **after** they had been detained; and
- iii. Has not provided credible and clear documentary evidence proving their claimed age; and
- iv. Does not have a Merton compliant age assessment stating they are a child; and
- v. Does not have an unchallenged court finding indicating that they are a child; and
- vi. Physical appearance/demeanour very strongly suggests they are significantly over 18 years of age.

10. If one of the categories above applies [within category (d) all seven criteria must apply] the individual will be treated as over 18 years of age.

Age dispute case

11. For the purposes of this instruction the Home Office defines an age dispute case as one where an individual:
- a. Claims to be a child; and
 - b. The categories at paragraph 9 a) to d) do not apply; but
 - c. The individual is unable to prove he/she is under 18 years old and is awaiting a Merton compliant age assessment to confirm their age.

Procedures

Post-detention age claim – safeguarding actions

12. If an individual claims to be a child whilst in detention or under escort the decision whether to maintain detention or whether to release should be made immediately by the Home Office case owner (see paragraph 14 below).
13. An individual who is defined as an age dispute case (see paragraph 11) **must not** remain in detention pending a Merton compliant age assessment. He/she will be released into the care of the local authority. Case owners should make referrals to the local authority as quickly as possible. In the event that the placement is delayed by the local authority, the IRC will make immediate arrangements to safeguard the individual within the centre whilst awaiting the local authority response. The Home

Office has a safeguarding responsibility and therefore should not release children into the community until a place of safety has been found by the local authority.

Post-detention age claim – case work actions

14. If an individual makes a claim to be a child whilst in detention, the following actions must be followed:

- The centre supplier must immediately inform both the Home Office DET and Compliance teams at the centre or the ECMT duty SEO for RTSHFs.
- DET teams (or the ECMT duty HEO for RTSHFs) must ensure that the Casework Information Database (CID)/ATLAS is fully updated on the case notes.
- The DET team must immediately inform the case owner to advise them of the possible age claim. The case owner must immediately make a referral to the local authority for an age assessment to be undertaken.
- The DET team must pass on to the case owner any local information held which may help inform an age assessment decision, including any new documentation provided by the individual.
- The centre supplier must immediately put in place all reasonable measures to safeguard the person while in detention (paragraphs 23-26) and notify the Compliance team of these measures.
- DET teams (or the ECMT duty HEO for RTSHFs) must ensure that the Casework Information Database (CID)/ATLAS is fully updated on the case notes to show that the person is still detained but subject to an age claim that needs to be resolved. Any requests sent, and/or subsequent updates received from the case owner or local authority should also be noted on CID/ATLAS.
- DET teams must send any original (electronic or hard copy) age dispute paperwork to the case owner to store on the Home Office file and centre suppliers must store copies of age dispute care plans/risk assessments on the detainee transferable document (DTD).

15. If an individual does not meet the **paragraph 9 categories A, B or D**, the case owner (assessing officer) must check that the individual meets the criteria at **paragraph 9 category C** (i.e. that the individual's physical appearance/demeanour very strongly suggests they are significantly over 18 years of age and no other credible evidence exists to the contrary) before the decision is taken to detain. The assessing officer's countersigning officer (who must be at least CIO/HEO level) must be consulted. He/she must make their own assessment of the individual's age. The individual must be seen in person by each of these officers who must make their own individual assessment. If the countersigning officer agrees that the individual's physical appearance and demeanour very strongly suggests they are

significantly over 18 years of age the individual should be informed that their claimed age is not accepted.

16. In very exceptional circumstances the DET team can make the assessment at the case owner's request. If there is any doubt whether the individual is significantly over 18 they should be afforded the benefit of the doubt and treated as an age dispute case. In such cases the case owner must accept the decision of the team. The assessing officer must be at least EO level. The assessing officer's countersigning officer (who must be at least HEO level) must be consulted. He/she must make his/her own assessment of the individual's age. Out of hours, the initial age assessment may be conducted on the following day. However, if this falls over a weekend and a Compliance manager is not onsite, then the DET team must notify the on-call DET manager with details of the case, who will take a decision on what actions to take.
17. If one or more of the categories at paragraph 9 apply, and the decision is made that the individual is an adult, the following actions should be completed by case owners:
 - a. Form IS.97M must be: completed by the case owner; signed by the counter signing officer; served on the individual; and a copy emailed to the Detainee Escorting and Population Management Unit (DEPMU). Form BP7 (ASL.3596) must be completed, signed and held on file.
 - b. All cases: The individual's date of birth within the 'Person's Details' screen on CID/ATLAS must be updated by the case owner to reflect the assessed age – not the individual's claimed date of birth. Failure to complete this action will result in DEPMU refusing to allocate detention space in adult accommodation.
18. If any new relevant evidence is received, then the case owner must promptly review any previous decision to treat an individual as an adult.
19. If centre staff (Home Office or supplier) disagree with the initial assessment i.e. they disagree that the detained individual's physical appearance and demeanour very strongly suggests they are significantly over 18 years of age, they must inform the case owner of this concern, via email, and request the case owner review the previous decision to treat an individual as an adult. Appropriate safeguarding measures as outlined in paragraph 24 must be maintained for the duration of the review.
20. If any of the categories at paragraph 8 apply, this means that the individual must be treated as a child and released from detention into the care of a local authority. The case owner is responsible for making the immediate referral to the local authority and arranging the placement into care. Accommodation must be provided by the local authority as soon as possible after the decision was made. DET teams must notify their Area Managers via email as soon as practicable.

Post-detention age claim – out of office hours

21. If an individual makes a claim to be a child whilst in detention outside of office hours, the following actions must be followed:

- The centre supplier to immediately inform the on-call Compliance manager for the centre or ECMT duty SEO for RTSHFs.
- The on-call Compliance manager to confirm with the service provider that the appropriate safeguarding arrangements have been put in place (paragraphs 23-36).
- The on-call Compliance manager to email the DET IRC inbox and DES IRC inbox, copying in both the DET manager and DES manager, informing of the age claim with the relevant details.
- The age dispute claim to be treated as a priority and for actions to begin (paragraph 15) as soon as the office next opens.

Management of age dispute cases by IRC suppliers

22. It is the local authority's responsibility to arrange the appropriate transfer of a post detention age claim from the centre to local authority care. Case owners and the DET IRC teams should be involved in arrangements, and DEPMU staff should be notified once arrangements are in place. In the meantime, the centre supplier must make arrangements to safeguard and promote the welfare of that person as though they were a child.

23. An individual risk assessment must be conducted on the individual concerned to ensure that they are safeguarded, and their welfare promoted whilst they remain in the centre. The risk assessment must be shared with all relevant internal departments such as welfare, activities and healthcare, who should have the opportunity to contribute to the plan as appropriate. A copy of the risk assessment must be provided to DET IRC team who will then email a copy to the case owner, and the centre supplier should also email a copy to the Independent Monitoring Board (IMB).

24. It will not normally be appropriate for a post detention age claim case to be held separately unless there are other considerations which would justify this under normal Detention Centre Rules: rather staff should look to maintain as much association and activity as possible whilst ensuring that the person is safeguarded.

25. All interaction with the detained individual should be recorded on the care plan and it should be reviewed daily by the DET IRC team who should also conduct a daily welfare check on the detained individual and record their findings on CID and ATLAS. When notified of a possible age dispute case by either the case-owner, local authority or centre supplier, the DET IRC team must ensure that all relevant

parties deal with resolving the age dispute issue as a matter of high priority. The DET IRC team should check that a Merton compliant age assessment has been conducted, and if an assessment has not been completed a request should be made to the local authority via the case owner. In addition, the DET IRC team should ensure that actions and decisions are expedited and act as a conduit between case owner, centre supplier and the local authority by exchanging relevant information and updates when appropriate.

26. In the event that a detained individual initially treated as an adult in detention is assessed as a child and released from detention, the DET team should consider holding a lessons learned review and include engagement from case working and Compliance teams.

27. The DET team in the IRC must keep a record of all post detention age claims that are made at the centre.

Age dispute cases during escort

28. If an individual makes a claim to be a child during escort, the following actions must be followed:

- The escorting supplier must immediately notify DEPMU (or the DEPMU on-call manager out of hours)
- DEPMU must immediately contact the case owner (or point of contact out of hours) to advise them of the possible age dispute case
- DEPMU must clearly note CID and ATLAS to show that the detained individual is subject to the age dispute process
- The escorting supplier must immediately put in place all reasonable measures to safeguard the person for the duration of the journey

29. The normal post detention age claim procedures should apply (paragraphs 12-21) unless the case owner makes alternative arrangements.

Management of age dispute cases by the Detainee Escorting and Population Management Unit (DEPMU)

30. DEPMU should ensure that the appropriate detaining paperwork is in place for all age dispute cases, such as the IS91, DTD and IS97M (if previously age assessed). For IRCs, the onsite Compliance manager should also check this paperwork upon arrival at the centre.

31. Upon referral from Immigration, Compliance and Enforcement (ICE) teams/Border Force/case owners for a detention bed, DEPMU must ensure that an individual is

both suitable for detention and an adult prior to allocating a bed (DSO 03/2016 consideration of detainee placement refers).

32. Intra-centre transfers of age dispute cases should be kept to a minimum. If a movement is required i.e. for safeguarding reasons, DEPMU must ensure that the movement order clearly shows that the individual is an age dispute case, and that a safer detention referral has taken place.

Individuals previously sentenced by the criminal courts as an adult

33. Individuals previously sentenced by the criminal courts as an adult will be treated as an adult.
34. If the individual would ordinarily fall within the definition of an “age dispute case” set out in paragraph 9, and detention is considered appropriate (having regard to the prospects of removal, the risk of absconding, and the risk posed to the public), the case owner must make the referral to the local authority for a Merton compliant age assessment to be conducted and the report should be submitted to the Home Office case owner as soon as possible. The DET Area Manager should be notified at the earliest opportunity to enable them to liaise direct with the case owner. The individual’s detention should be maintained until a final decision on their age has been made.
35. It is appropriate to treat these individuals differently to others because they have previously presented themselves as an adult during the criminal court procedure and any custodial sentence will have been served in an adult prison. Due to the imperative to protect the public from harm the individual should not be released until it is clear that they are a child and the Home Office’s policy on detention of adults therefore does not apply.

Revision History

Review date	Reviewed by	Review outcome	Next review
January 2022	S Ali	Change in the threshold for assessing someone claiming to be a child as an adult based on an assessment of their physical appearance and demeanour.	December 2024