



Home Office

# Assessing age

Version 11.0

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# About this guidance

This guidance sets out the policy and procedures that must be followed when those subject to immigration control, do not have sufficient evidence to demonstrate their age, and either their claim to be children is doubted or they claim to be adults but are suspected to be children.

Specifically, this guidance provides information on:

- the circumstances in which it is appropriate to dispute the claimed age of an individual subject to immigration control
- how decisions on age 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 and National Age Assessment Board.

## Intended audience

This instruction is intended for Home Office staff dealing with individuals who do not provide sufficient evidence to be sure of their age and whose age is in doubt.

## 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 the Guidance Review, Atlas and Forms team.

## Publication

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

- version **11.0**
- published for Home Office staff on **30 June 2025**

## Changes from last version of this guidance

This document has been amended to take into account the introduction of a process for conducting abbreviated age assessments.

### Related content

[Contents](#)

# Background

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

- they are subject to immigration control
- there is insufficient evidence to be sure of their age
- 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 or they are suspected to be a child but a different age than claimed

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 individual 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 decisions on age and 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.

## Part 4 of the Nationality and Borders Act 2022

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

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

- 'age-disputed person' means an individual who requires leave to enter or remain in the UK (whether or not such leave has been given), and in relation to whom a local authority or the Home Office, has insufficient evidence of their age
- 'designated person' means an official of the Home Office who is designated by the Home Office to conduct age assessments under section 50 or 51, in other words, a National Age Assessment Board (NAAB) official who carries out age assessments
- 'local authority' means:
  - in relation to England and Wales, a local authority within the meaning of the Children Act 1989
  - in relation to Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994
  - in relation to Northern Ireland, a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991
- 'relevant children's legislation' for the purposes of these provisions means:
  - in relation to a local authority in England, any provision of or made under Part 3, 4 or 5 of the Children Act 1989
  - in relation to a local authority in Wales or Scotland or a Health and Social Care Trust in Northern Ireland, any statutory provision (including a provision passed or made after the coming into force of Part 4 of the 2020 Act) that confers a 'corresponding function' on such an authority
- 'corresponding function' is defined as a function that corresponds to a function conferred on a local authority in England by or under Part 3, 4 or 5 of the Children Act 1989

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

- section 50(1) provides that local authorities may refer an age-disputed person to a designated person (NAAB) for an age assessment to be conducted
- section 50(2) defines the circumstances in which the actions required under sections 50(3) and 50(4) apply – for example:
  - the first circumstance is where a local authority needs to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children’s legislation
  - the second circumstance is where the Home Office notifies a local authority that it doubts that an age-disputed person, in relation to whom the local authority has exercised or may exercise functions under relevant children’s legislation, is the age that they claim to be
- section 50(3) requires that where section 50(2) applies, a local authority must either:
  - refer the age disputed person to the NAAB to conduct an age assessment
  - conduct an age assessment themselves and inform the Home Office of the results of its assessment
  - if the local authority is satisfied the individual is the age they claim to be and considers that an age assessment is not required, the local authority must notify the Home Office of this in writing
- section 50(4) requires that where a local authority either conducts an assessment themselves or confirms that they are satisfied that the age of an age-disputed person is as claimed, they must, on request from the Home Office, provide the Home Office with such evidence as the Home Office reasonably requires, to allow the Home Office to consider that decision
- section 50(5) requires that, where a local authority refers an age-disputed person to the NAAB for an age assessment, the local authority must provide any assistance that the NAAB reasonably requires for the purposes of conducting that assessment
- section 50(6) stipulates that the standard of proof for an age assessment under this section 50, either conducted by the NAAB or a local authority, is the balance of probabilities
- section 50(7) stipulates that an age assessment conducted by the NAAB under section 50 following a referral from a local authority:
  - is binding on the Home Office when exercising immigration functions, and
  - is binding on a local authority that is aware of the age assessment and has exercised or may exercise functions under relevant children’s legislation (but this is subject to section 54(5) (appeals relating to age assessments) and section 56 (new information following age assessment or appeal)

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

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

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

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

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

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

Section 52 confers a power on the Home Office to make regulations specifying the use of scientific methods of age assessment and for a decision-maker to be able to take a negative credibility inference from a refusal to comply with a request to undergo a scientific age assessment, without good reason. This section of the 2022 Act was commenced on 20 November 2023. Scientific methods using X-rays and MRIs on various body parts were specified for the purpose of age assessment in The Immigration (Age Assessments) Regulations 2024 which came into force on 10 January 2024.

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

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

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

## Section 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 individual may be a victim of human trafficking. In such cases, if they are not certain of the individual's age but have reasonable grounds to believe that they may be under 18, they must assume for the purpose of those arrangements, that the individual is under 18 until an assessment of the individual's age is carried out by a local authority or their age is otherwise determined. An individual's age would be considered to be otherwise determined if an assessment of their age is carried out by the NAAB or 2 Home Office officials (one at least of CIO grade or equivalent) have separately determined that the individual's physical appearance and demeanour very strongly suggests they are significantly over 18 years of age.

'Relevant arrangements' means providing assistance and support to individuals who are, or for whom there are reasonable grounds to believe that they may be, victims of human trafficking 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

[Contents](#)

# Initial decision on age

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 Instructions). 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 individual 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 individuals 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 assessing age 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. This is the case even though the majority of individuals assessed as adults are not detained.

A decision on age by the Home Office 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 pending further consideration of their age, which may include a Merton compliant age assessment. This would include cases where their physical appearance and demeanour does not very strongly suggest they are significantly over 18 years of age. If the claimant, who is being treated as a child pending further consideration of their age, is unaccompanied, they will be referred into local authority care.

The initial decision on age 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 3 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 of the following apply:

- a Merton compliant age assessment has been conducted by the National Age Assessment Board (NAAB) and has assessed the claimant to be 18 or over (see [Age assessments conducted by the NAAB](#) for further information on the circumstances in which these decisions are binding on the Home Office)
- a Merton compliant age assessment has been conducted by a local authority and has assessed the claimant to be 18 or over, which Home Office officials have agreed with after:
  - giving significant weight to the assessment
  - taking all reliable evidence into account ([Merton compliant 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 and there is little or no supporting evidence for their claimed age
- there is credible and clear documentary evidence that they are 18 years of age or over

## Age assessments conducted by the NAAB

Under sections 50(7) and 51(3) of the Nationality and Borders Act 2022, decisions of a “designated person” (a NAAB decision-maker) are binding on the Secretary of State and immigration officers when exercising immigration functions, and therefore, you must treat the claimant as the age they are assessed to be by the NAAB. While the assessment is binding in these circumstances, an age assessment conducted by the NAAB would no longer be binding if it is overturned by way of judicial review, or if

a new assessment decision is taken because significant new evidence has come to light. For information on judicial reviews of NAAB decisions on age and new decisions on age made by the NAAB, refer to the National Age Assessment Board guidance.

## **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 Merton compliant age assessment has been conducted by the National Age Assessment Board (NAAB) and has assessed the claimant to be under 18 (see [Age assessments conducted by the NAAB](#) for further information on the circumstances in which these decisions are binding on the Home Office)
- a Merton compliant age assessment has been conducted by a local authority and has assessed the claimant to be under 18, which Home Office Officials have agreed with after:
  - giving significant weight to the assessment
  - taking all reliable evidence into account ([Merton compliant 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](#)); or there is credible and clear documentary evidence that they are the age they claim to be

## **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 may require the local authority to conduct a Merton compliant age assessment or make a referral to the NAAB to conduct an assessment. For further information refer to [Provisionally treating the claimant as a child](#).

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

## **Merton compliant age assessment already completed**

In most cases, the initial decision on age will be conducted on claimants who have come to the attention of the UK authorities for the first time and therefore a Merton compliant age assessment will not have previously been conducted. However, the presence of a Merton compliant 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 a [Merton compliant](#) age assessment has already been conducted, refer to [Merton compliant age assessments](#) for guidance on considering the assessment.

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

You must treat the claimant as an adult if their physical appearance and demeanour very strongly suggests they are significantly over 18 years of age **and there is little or no supporting evidence for their claimed 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 decision](#) on age 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 they are significantly over 18 years of age, 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 individuals around them has been observed – an instantaneous visual assessment of the claimant is not sufficient

This interaction may include the potential for a face-to-face discussion in the presence of one or both immigration officials. Where a discussion is conducted as part of this process an interpreter must be provided if required and any information collected must only be used for the purposes of assessing age.



## 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 different 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, an individual who exercises regularly may display muscle definition more associated with older people

## Assessing demeanour

It is essential to take account of how the individual 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 into 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 individuals 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

In assessing demeanour as part of the significantly over 18 process an officer may conduct a discussion to assist their interaction with the young person.

## 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 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.

## Taking account of views expressed by social workers at the point the assessment is made

If a social worker is present during the Home Office's assessment of whether the claimant's physical appearance and demeanour very strongly suggest they are significantly over 18 years of age, any views expressed by the social worker must be taken into account as part of the assessment. The social worker's views must be assigned significant weight given the particular expertise they have through working with children on a daily basis. In some cases, a local authority may have had the claimant in their care and any local authority social worker present may have benefitted from more direct observation and contact with the claimant than the assessing officers.

However, a decision to assess that a claimant's physical appearance and demeanour very strongly suggest that they are significantly over 18 years of age under this policy is the **sole responsibility of the Home Office assessing officers**. Assessing officers must not make such a determination unless **they** are independently confident that this is the case. If assessing officers are not confident, the claimant must normally be treated as a child until further assessment has been completed and referred to a local authority (refer to [Provisionally treating the claimant as a child](#) for further information).

In other cases, assessing officers may consider that the claimant is significantly over 18 years of age, but a social worker (if present at the point the Home Office is making the assessment) considers them to be a child without the need to conduct a Merton compliant age assessment. Where this is the case, the views of the social worker will make it highly unlikely that the assessing officers could confidently assess the claimant to be significantly over 18 years of age.

## Consideration of a ‘significantly over 18’ decision on age

A specific age is not assigned to mean “significantly over 18”. While the courts have found that age is notoriously difficult to assess by appearance and demeanour alone, they have found that it is permissible to make decisions on age based on physical appearance and demeanour where they are clearly an adult, for example, where it is obvious that a person is over 18. In such cases the courts have found that there is normally no need for prolonged inquiry. If whether the claimant is an adult or a child is objectively borderline (for example, between 16 and 20 years of age) appearance and demeanour must not be the sole basis for decisions on age.

The ‘significantly over 18’ threshold is deliberately high as it takes into account the potential margin for error with assessments based on physical appearance and demeanour alone. Where that threshold is not met, the individual must be treated as a child and transferred to a local authority for further consideration of their age.

Not everyone will agree if someone’s appearance and demeanour very strongly suggest that they are significantly over 18 - this is why the decision must be taken independently. Decision makers must consider whether there is any possibility that the person in front of them is a child. If, after assessing the claimant’s physical appearance and demeanour, they cannot independently and confidently make a decision that they have no doubts that the person is a child, decision makers must **not** make a ‘significantly over 18’ decision.

Notice should be given to the findings of the High Court in [AB v Kent County Council \[2020\] EWHC 109 \(Admin\) \(23 January 2020\)](#). The Court found that the abbreviated Merton age assessment, which assessed the claimant to be potentially as young as 20, was unlawful in the individual circumstances because it failed to adequately acknowledge the potential margin for error with these types of assessments and therefore a comprehensive age assessment should have been conducted in that case. This judgment concerned an abbreviated Merton age assessment, as opposed to an initial decision on age conducted by immigration officials but is an indication of the court’s view on the margin for error with this type of assessment conducted by trained social workers who work with children on a daily basis.

## Claimant admits to being an adult

You may encounter cases where a claimant’s claim to be a child is disputed by the Home Office but they later admit to being an adult. In these cases, it is important that such a declaration is clearly recorded on Atlas and a Statement of age form must be completed and signed by the claimant. If the claimant admits to being an adult their age will no longer be considered in dispute, and they will be treated as an adult for immigration purposes.

## 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, these circumstances will occur in one of the two following scenarios:

### 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

When making a decision to dispute a claimed age or to continue to dispute a claimed age, any views expressed by a social worker must be taken into account and assigned significant weight, given the particular expertise they have through working with children on a daily basis. In some cases, a local authority may have had the claimant in their care and any local authority social worker present may have benefitted from more direct observation and contact with the claimant than the assessing officers. It would usually be appropriate to accept a claimed age in the absence of a Merton compliant age assessment where all the following criteria are satisfied:

- a social worker engaged by the applicable local authority, or the Home Office has confirmed in writing that they have accepted the claimant's claimed age
- their physical appearance and demeanour have not been assessed by the Home Office to very strongly suggest 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 social worker accepts the claimant's age without a Merton compliant age assessment being conducted and where, in doing so, this 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.

More in-depth assessment will also be required where a local authority accepts the claimant's age without a Merton compliant age assessment being conducted and the claimant's physical appearance and demeanour has been assessed by the Home Office to very strongly suggest they are significantly over 18 years of age. While views expressed by local authority social workers must be taken into account and assigned significant weight, the fact that Home Office staff determined that the claimant was significantly over 18 requires a more in-depth assessment.

In such cases (where more in-depth investigation is required), you must request that the local authority arranges for a Merton compliant age assessment to be conducted and then proceed to carefully consider the findings of the assessment, alongside any other relevant information available, before making a decision on age for immigration purposes. If the local authority remains of the opinion that an age assessment is not required, and the Home Office is not satisfied with this based on the information the Home Office has received, refer to the Age Assessment Joint Working Guidance for guidance on what actions need to be taken in this situation.

For further information refer to the '[provisionally treating the claimant as a child](#)' section 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 or make a referral to the NAAB to conduct an assessment should not normally be made, but if one is

subsequently conducted 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, treated as 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. 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.

## **Unaccompanied claimants**

In the case of unaccompanied claimants this consideration will include obtaining the views 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.

If the local authority has reasonable doubt that the claimant in relation to whom they have exercised or may exercise functions under relevant children's legislation is the age that they claim (or are claimed to be), they will either:

- refer the age-disputed person to the NAAB for an age assessment (in the event the local authority has been notified by the NAAB that it is eligible to do so under the prioritisation criteria)
- conduct an age assessment on the age-disputed person itself

Alternatively, if the local authority has insufficient evidence to be sure of their age but is satisfied that the claimant is the age they claim to be and, as a consequence, an age assessment is not required, they will inform the Home Office in writing of its decision as soon as possible after the decision is made. This includes, upon the Home Office's request, providing the Home Office with evidence it reasonably requires for it to consider the local authorities decision and make a decision on age for immigration purposes.



For further information on when a decision on age must be made by a local authority and when a referral can be made by a local authority to the NAAB, refer to the National age assessment board guidance.

## Unaccompanied claimants at the juxtaposed controls

The initial decision on age policy applies to age-disputed persons encountered at the juxtaposed controls, but there are a few differences in the process once a decision has been taken to treat someone as age disputed (Outcome 3) or to be treated as a child (Outcome 2).

It remains the case that age-disputed persons will be treated as adults where two members of Home Office staff (one at least a CIO or equivalent) independently assess that their physical appearance and demeanour very strongly suggest that they are 'significantly over 18' (for further information on the process to be followed when making these decisions see: Physical appearance and demeanour very strongly suggests that they are significantly over 18 years of age). In addition, in cases where doubt remains over whether they are an adult or a child, age-disputed unaccompanied persons encountered at the juxtaposed controls must still be afforded the benefit of the doubt and, for the time being, treated as their claimed age until and in the event further assessment, such as further consideration of their age by children's services, is completed (for further information on this decision see: Provisionally treating the claimant as a child).

However, where the age-disputed person is to be treated as their claimed age until further consideration of their age has been completed, instead of referring them to a local authority for further consideration of their age, they will be referred to the police within the country the initial decision on age was taken and the reasons for making the initial decision on age should be shared with the police - for example, if the person was encountered at controls in Paris Gare du Nord, Calais Dunkerque or Coquelles, they would be referred to the French Police Aux Frontières (PAF). Decision makers at the juxtaposed controls are to complete the juxtaposed controls versions of either an IS.97M or IS.98M and ASL.3596 (also known as BP7), where appropriate, when making initial decisions on age.

## Reviewing initial decisions made at the juxtaposed controls

Initial decisions on age taken at juxtaposed controls are initial decisions on age for the purposes of this policy and guidance document. It is therefore important when encountering persons on arrival in the UK, that before a decision on age is taken in the UK or, at the very least, before the asylum registration process has been completed, immigration officials (such as the Irregular Migration Intake Unit) should endeavour to ascertain whether an initial decision on age has already been taken in juxtaposed controls, such as by checking their details against Atlas.

If the immigration officials encountering the person upon their arrival in the UK are aware that an additional initial decision on age was taken at juxtaposed controls, another initial decision on age does not need to be made unless that decision appears to be inaccurate, in which case they should proceed to make another initial



decision on age. For example, a new initial decision would be required where decision makers:

- become aware of new information and there is a realistic prospect that if another initial decision on age were to be conducted, taking into account the new information, the age-disputed person's age would be assigned a different age to that assigned to them at the first initial decision
- disagree with the decision made by juxtaposed controls that the age-disputed person's physical appearance and demeanour very strongly suggests they are significantly over 18 years of age

If a decision is made to maintain the initial decision made in juxtaposed controls that the age-disputed person is an adult, unless their claimed date of birth would make them 18 years of age or above, they must be issued with:

- the Supplement to the juxtaposed controls version of the IS.97M in the event the age-disputed person was issued with an IS.97M by juxtaposed controls
- the Supplement to the juxtaposed controls version of the IS.98M in the event the age-disputed person was issued with an IS.98M by juxtaposed controls

If an initial decision on age taken by juxtaposed controls is only identified after a subsequent and conflicting decision on age has been taken by immigration officials upon the age-disputed person's arrival in the UK, the following steps must be taken:

- the team which identified the conflicting initial decisions must immediately notify the decision-making team which made the second decision
- upon receipt of the notification, the decision-making team which made the second decision must review its initial decision in light of the initial decision on age taken by juxtaposed controls

A decision by one decision making team to either accept the person's claim to be a child or to treat them as a child pending further consideration of their age, would introduce doubt over the accuracy of a decision made by another decision making team that the age-disputed person's physical appearance and demeanour very strongly suggests they are significantly over 18 years of age. As a consequence, in this scenario, the significantly over 18 decision should be withdrawn and the age-disputed person should be treated as child pending further consideration of their age, unless they can be treated as an adult on other grounds set out within this guidance document.

## Accompanied claimants

While most of those whose claims to be children are doubted are unaccompanied, some are accompanied. A claimant would be accompanied if they are being cared for either by parents or by someone who in law or custom has responsibility to do so. Those claiming to be accompanied children are less likely to require a local authority to decide whether or how to exercise any of its functions under relevant children's legislation in relation to the young person.

Section 51 of the Nationality and Borders Act 2022 allows for the NAAB to conduct an age assessment on an age disputed person where the individual is not in the care of a local authority and is not claiming to be an unaccompanied child. This could include where an age-disputed person seeking asylum is claiming to be a child dependant of another person and does not require accommodation or support from a local authority. Refer to [When the Home Office can make a referral to the NAAB](#) for further information on making a referral to the NAAB for an age assessment to be conducted in these circumstances.

## **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 it appears that they are a child, and there is no credible and clear evidence confirming their claimed age (including a Merton compliant age assessment), 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 a social worker and their view on the claimant's age obtained – this would usually entail referring the claimant to a local authority

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 an individual may be a victim of modern slavery and that individual may be under 18, until such time an assessment of their age is carried out by a local authority or their age is otherwise determined, [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 individual 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. Section 48 of the Modern Slavery Act 2015 makes provision for Independent Child Trafficking Guardians (ICTGs) in England and Wales. The role of ICTGs is to provide specialist independent support for trafficked children, in addition to existing statutory service provision, and to advocate on behalf of the child to ensure that their best interests are reflected in decisions made by public authorities. ICTGs are currently available in two thirds of local authorities in England and Wales. If the claimant is in an area an ICTG is operating, then a referral should also be made to the ICTG.

### Related content

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# Documentary evidence of age

This section provides you 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 an initial decision on age, or a Merton compliant age assessment conducted by a local authority or the National Age Assessment Board (NAAB).

## 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 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. For country specific guidance on travel and identity documents, refer to the relevant Country policy and information.

Photocopies or faxed copies of those documents must still be considered alongside all the other evidence but will carry considerably less weight as the copies cannot be verified.

## 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 chief immigration officer or a senior caseworker. For country specific guidance on birth certificates, refer to Country policy and information.

## Electronic copies of identity documents

Electronic copies of a physical identity document (ID), for example a photograph on a mobile phone, in the claimant's name must be taken into account when assessing age if submitted by the claimant or someone on their behalf to the decision makers

or where the decision makers are made aware of electronic ID in the Home Office's possession. Electronic ID will likely carry considerably less weight as evidence of age than physical forms of ID.

Where there is no other genuine official documentation to support the electronic form of identity, it must still be considered alongside all the other evidence submitted but will not necessarily be considered determinative. If in any doubt, guidance must be sought from a chief immigration officer or a senior caseworker.

## 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. For further information see Visa matches.

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

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, if the claimant enters or is already in local authority care, the local authority must be made aware of information that supports or disputes the claimed age in age dispute cases as soon as possible.

## 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 [Modern slavery: how to identify and support victims](#)).

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 chief immigration officer, supervising officer, senior caseworker or, if available, a local document fraud expert

If further concerns remain, documents may be referred, by a chief immigration officer or 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 party which undertook the initial age decision was aware of this documentation in arriving at its conclusion on age

## **Related content**

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# How the process safeguards and promotes the welfare of children

This page tells you how the assessing age 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 assessing age process, including Home Office officials. The assessing age policy has in-built safeguards to ensure it is compliant with the duty under [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of children.

For example, where there remains doubt over whether a claimant is an adult or child (that is, they fall under “[Outcome 3](#)” above), they will initially be afforded the benefit of the doubt and treated as children until further consideration of their age has been conducted. 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 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 years of age 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 years of age 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 adherence to the outcome of a Merton compliant age assessments conducted by the National Age Assessment Board (NAAB) or its policy to heavily rely on Merton compliant age assessments conducted by local authorities when making a decision on a claimant’s disputed age, when exercising immigration functions, 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. Where the Merton compliant age assessment is conducted by a local authority, these authorities are bound by [section 11 of the Children Act 2004](#) or equivalent (upon which the section 55 duty is largely based) and rely on their own Merton compliant age assessments unless and until they receive further reliable evidence indicating a different age.

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# Concerns raised by other UK governmental organisations or public authorities over the age of a claimant

There may be instances where another UK governmental organisation, such as a local authority or school, raises concerns that a claimant is not the age the Home Office has accepted them to be and that the Home Office should have disputed their claimed age. In these cases, the authority should be encouraged to immediately explain why they doubt the claimant's age.

Although not common, such circumstances reflect the reality that an asylum seeker's physical appearance and demeanour can be both permanently and temporarily significantly affected by their experiences in their country of origin and their journey to the UK, which may have been long and traumatic with limited opportunities to manage their basic physical health and self-care needs. With good care and some recovery time, an individual's physical appearance may appear younger or older within a short period of time.

If the organisation is a local authority, the Home Office should request that they undertake a Merton compliant age assessment or request the National Age Assessment Board to undertake one. Upon receipt of the assessment, Home Office immigration or asylum decision making unit must promptly consider it in accordance with the guidance within this asylum instruction. It should be noted that local authorities do not need the Home Office to dispute a claimant's age before undertaking an age assessment under the Nationality and Borders Act 2022 (2022 Act) if they themselves believe one is required. This would be where:

- the claimant is subject to immigration controls and the local authority has insufficient evidence to be sure of their age
- they need to know the age of the claimant for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the individual
- they doubt that the claimant is the age that they claim (or are claimed) to be

If concerns are raised by a school, they should be encouraged to immediately raise their concerns with their local authority and request that a Merton compliant age assessment is conducted as soon as possible. Alternatively, if the local authority does not need to decide whether or how to exercise any of its functions under relevant children's legislation in relation to the claimant, consideration should be made to whether it is appropriate for Home Office to make a referral to the National Age Assessment Board (NAAB) for an age assessment to be conducted. While it is expected that most age assessments undertaken by the NAAB will be conducted upon referral from a local authority, in certain situations age assessments can be conducted under section 51 of the [2022](#) act without a referral by a local authority being made, for the purposes of deciding whether or how the Home Office should exercise any immigration functions in relation to those young people. For further



information on when a referral can be made to the NAAB in this circumstance, refer to [When the Home Office can make a referral to the NAAB](#).

#### **Related content**

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# Initial decision on age: notification and recording the decision

This page tells you about the process at the initial decision on age stage for notifying the claimant of the age assessment decision, updating Atlas 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 decision on age 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 the next stage of their immigration or 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
- complete form ASL.3596 (also known as BP7), which should set out the reasons why the claimed age cannot be accepted
- in the event the young person subsequently approaches a local authority claiming to be a child, copies of the IS.97M and ASL.3596 should be shared with the local authority

## 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 (if being treated as unaccompanied)

- it is likely that an assessment of their age will be conducted
- 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:
  - 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
- if unaccompanied, 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) – this referral should include:
  - a notification that the Home Office doubts that they are the age they claim to be and, if they agree that there is reasonable doubt the claimant is the age they claim (or are claimed) to be, request that a Merton compliant age assessment is conducted (for further guidance on referring a claimant to a local authority)
  - a copy of the IS.97M or IS.98M issued to the claimant and a copy of the ASL. 3596
- if accompanied – request that the NAAB conducts an age assessment (Refer to [When the Home Office can make a referral to the NAAB](#) for further information)

## 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 ATLAS at the initial decision stage

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

Concerning Atlas, you should undertake the following actions when updating Atlas:

1. Complete the ASL.3596 (also known as the BP7) with the following details and upload it to Atlas:
  - 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
  - if required, an IS.10 (minute sheet) can be used to record additional information on the decision on age

2. Record the date of birth on 'Personal 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

Entering an age disputed claimant's claimed age on Atlas is intended to remove the possibility that the date of birth recorded on their ARC card prevents them from accessing services as a child, while they are being provisionally treated as a child by the Home Office. It does not prevent local authorities from treating them as a child of a different age during this period if they believe this is justified for the purposes of the delivery of services under the Children Act 1989 (or equivalent).

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 they are significantly over 18 years of age, when entering the estimated date of birth onto Atlas, it must:

- reflect the age the Home Office believes them to be
- not be entered as 18 years of age

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**Official – sensitive: start of section**

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

## Official – sensitive: end of section

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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 Atlas using the following guidance in [Updating Atlas at the initial decision stage](#).

### Application registration card: date of birth

The production of the application registration card (ARC) will be authorised from Atlas and use information recorded on here. 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 Atlas:

- 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 person alerts on Atlas
- 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 Disputed' person alert must **not** be open on Atlas

The ARC when issued will then be produced with the date of birth recorded on Atlas 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.
5. You can also go to 'Manage ARC' under the 'Asylum and Complex Cases' case card in ATLAS to issue or re-issue an ARC.

### Age assigned by a 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](#) (or equivalent) 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 have reasonable doubt that the claimant is the age they claim (or are claimed) to be and intend to conduct an age assessment, you must request that the local authority provides the age assessment report or proforma (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**

[Contents](#)

# 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 the claimant has already been assessed to be an adult. If this happens, you must:

- seek clarification from the local authority
- if a Merton age assessment has been completed by the local authority, obtain one of the following documents and consider it in accordance with this guidance document:
  - a copy of an age assessment report
  - an age assessment information sharing pro forma (or equivalent)
- if a Merton age assessment has been completed by the National Age Assessment Board (NAAB), obtain written confirmation of the date and outcome of the assessment from the NAAB and consider it in accordance with this guidance document (see [Age assessments conducted by the NAAB](#) for further information on the circumstances in which these decisions are binding on the Home Office)

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

This section provides information on when Home Office immigration and asylum decision making units can make a referral directly to the National Age Assessment Board (NAAB) for an age assessment to be conducted.

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

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

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

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

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

- the claimant is subject to immigration control and the Home Office needs to decide whether or how it should exercise any immigration functions in relation to the individual
- the Home Office has insufficient evidence to be sure of their age
- the Home Office has reasonable doubt that the claimant is the age they claim (or are claimed) to be
- they have either claimed to be a child or have claimed to be an adult but are suspected to be a child
- the claimant has not been treated as an adult following a determination by 2 officers (one of at least Chief Immigration Officer or equivalent grade) that the



individual's physical appearance and demeanour very strongly suggests they are significantly over the age of 18

- section 50(3) and section 50(4) of the 2022 act do not apply – this would be where the local authority does not need to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the claimant

At this time the NAAB only conducts comprehensive Merton compliant age assessments. Given the detailed nature of these assessments and the time taken to conduct them, this precludes them from being undertaken at the point of arrival in the UK. Therefore, if a person who claims to be an **accompanied** child has their age disputed by the Home Office but is treated as a child for immigration purposes pending further consideration of their age, a referral at initial decision on age stage should not be made to the NAAB. Instead, the relevant local authority should be notified by the team that has disputed the claimed age that the Home Office has disputed the claimant's claimed age, and that further consideration of their age needs to be made. The local authority can then decide:

- whether they need to know the young person's age for the purposes of deciding whether or how to exercise any of its functions under children's legislation in relation to the person and, if so,
- whether they doubt the age the young person claims to be and, if so,
- whether they will proceed to conduct an age assessment or, alternatively, make a referral to the NAAB for an age assessment to be conducted under section 50 (if they are eligible to make such a referral)

If the local authority does need to know the young person's age for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the person, then section 51(2)(a) is not the appropriate basis for the age assessment. The assessment would need to be conducted under either section 50 or, potentially, section 51(2)(b).

If the local authority does not need to know the young person's age for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the person, but the Home Office still has doubts about whether the age-disputed person is the age they claim to be, the NAAB can be consulted on whether a referral to the NAAB for an age assessment under section 51 should be made.

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

When a local authority either conducts an age assessment or accepts the claimed age of an age disputed person without conducting an age assessment, the Home Office will consider that decision (refer to the [Local authority age assessments](#) guidance for further information on this process). In most cases, the Home Office's decision on age will concur with the local authority's decision.

However, situations may arise where the Home Office has legitimate reasons to disagree the local authority's decision. For example, this could occur when the decision either:

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

Where this situation arises, the immigration and asylum decision making unit must contact the local authority to raise and, ideally, resolve these concerns. Guidance on contacting a local authority in these circumstances is located in [Local authority age assessments](#). If the Home Office's concerns with the local authority's decision have not been resolved, relevant guidance within the Age assessment joint working guidance on resolving differences of opinion between the Home Office and local authority must be referred to. In most cases, it is likely that any doubts the Home Office has with the local authority's decision will be resolved once one or both of these steps have been undertaken. However, if the Home Office still disagrees with the local authority's decision and has reasonable doubt that the claimant is the age they claim (or are claimed) to be, immigration and asylum decision making units can make a referral to the NAAB for an age assessment to be conducted if the NAAB has been consulted and agrees that an age assessment is required.

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

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

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

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

A referral in these circumstances would normally be where the local authority has not undertaken these actions within a reasonable timeframe and has not provided a reasonable explanation for having failed to do so. However, before making such a referral, the process in Scenario 2 on resolving differences of opinion between the Home Office and local authorities must be followed. Referrals to the NAAB in these circumstances would only take place in the rarest of circumstances.

### How to make a referral to the NAAB

All referrals to the NAAB under section 51 of the Nationality and Borders Act 2022 must be:

- made using the Home Office version of the NAAB referral form
- approved by the referring team's Assistant Director or higher and, in the case of scenarios two and three, after following the process as specified in the Age assessment joint working guidance
- submitted via the Children and Secondary Case Progression Unit (CSCPU) if the team disputing the age-disputed person's age is located in Asylum and Human Rights Operations

Referrals to the NAAB for an age assessment to be conducted should be submitted by email using the Home Office NAAB referral form and include information and documentation in the Home Office's possession relevant to the assessment of age, including the IS.97M or IS.98M and the ASL. 3596 (BP7). Upon receipt of a referral the NAAB will proceed to determine whether in their view an age assessment is required and whether they have capacity to conduct it.

For further information on the NAAB, refer to the National Age Assessment Board Guidance. Further information on the implication an age assessment conducted under section 51 of the 2022 Act is located in [Considering Merton compliant age assessments](#).

#### **Related content**

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# Merton compliant age assessments

This page tells you about the procedure you must follow to obtain and consider a Merton compliant 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 only
- [Social Services and Well-being \(Wales\) Act 2014](#) in Wales only
- [Children \(Scotland\) Act 1995](#) in Scotland only
- [The Children \(Northern Ireland\) Order 1995](#) in Northern Ireland only

Therefore, all claimants who are being treated as unaccompanied children must be referred to the relevant local authority. As part of its duties and in accordance with section 50 of the [Nationality and Borders Act 2022](#), if the local authority needs to know the age of the claimant for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to them and they have reasonable doubt that they are the age they claim to be, a Merton compliant age assessment will be conducted. The local authority will either proceed to conducting an assessment of the claimant's age or request the National Age Assessment Board (NAAB) to conduct the assessment.

## Social worker accepts 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 this circumstance the local authority is required to notify the Home Office in writing of this decision and, if requested by the Home Office, provide such evidence as the Home Office reasonably requires for it to consider the local authority's decision. You should consider whether it is appropriate for the Home Office to agree with this decision and accept the claimed age or request that a Merton compliant assessment is undertaken, despite their acceptance of the claimant's age. When making this decision the guidance in [Accepting the claimed age without the need for further consideration](#) should be referred to.

If the Home Office remains of the opinion that an age assessment is required, refer to the Age assessment joint working guidance on what actions need to be taken in these situations.

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
- [when the Home Office can make a referral to the NAAB](#) for guidance on Home Office referrals to the NAAB

- 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](#).

## Case law

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

You must note that although these summaries are correct at the time of publishing, new relevant case law may subsequently be promulgated amending the requirements.

## Basic principles before starting the Merton age assessment interview

Those who are conducting a Merton age assessment interview should consider following these basic principles before starting:

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

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

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

## The Merton age assessment interview

Those who are conducting a Merton age assessment interview should consider:

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

## The Merton age assessment conclusion

Those who are concluding a Merton age assessment should consider:

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

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

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

#### **Related content**

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# Considering Merton compliant age assessments

This section provides guidance on considering Merton compliant age assessments. This includes the different processes for considering age assessments conducted by the National Age Assessment Board (NAAB) upon referral by a local authority, those conducted by the NAAB upon referral by the Home Office and those conducted by a local authority.

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

## National Age Assessment Board Age Assessments

Age assessments conducted by the NAAB under section 50 of the [Nationality and Borders Act 2022](#) (2022 Act) are binding on:

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

Age assessments conducted by the NAAB under section 51 of the 2022 Act are binding on the Secretary of State and immigration officers when exercising immigration functions (including Home Office officials exercising immigration functions on the Secretary of State's behalf). But they are not binding on a local authority that has exercised or may exercise functions under relevant children's legislation in relation to the young person.

As NAAB age assessments are binding on the Home Office when exercising immigration functions, unlike with age assessments conducted by local authorities, there is no independent obligation on Home Office immigration and asylum decision making units to evaluate the evidence and consider whether the NAAB age assessment is case law compliant. For this reason, although the NAAB will notify immigration and asylum decision making units of the outcome of the assessment and when the assessment was made, it will not disclose age assessment reports or send age assessment proformas. This differs to the local authority age assessment process, which requires that local authorities provide the Home Office with a copy of the age assessment report or proforma (or equivalent), and there is an independent obligation on the Home Office to evaluate the evidence and consider whether the age assessment is case law compliant.

As age assessments conducted under section 51 of the 2022 Act are not binding on a local authority, where the NAAB conducts an age assessment in these circumstances, there is a risk that a local authority could treat the claimant as one age for the purposes of children's legislation, but the Home Office treats them as a different age for immigration purposes. This can have a number of negative implications. For example, not only would this be confusing for the young person, in the event they are treated as an adult for the purposes of immigration functions, they would not meet the definition of an unaccompanied asylum-seeking child (UASC) within the [UASC funding instructions to local authorities](#). The funding instructions set out the terms under which the Home Office will make funding available to local authorities in respect to their costs of supporting UASC.

Therefore, when an age assessment is conducted by the NAAB under section 51 of the 2022 Act and a local authority has exercised or may exercise functions under relevant children's legislation in relation to the young person, the NAAB should have sent a copy of the age assessment report to the local authority for their consideration. Where this appears to not have been done, immigration and asylum decision making units should contact the NAAB and request that a copy of the report is issued.

You should keep in mind that even where an NAAB age assessment is binding, it would no longer be binding on the local authority and Home Office if it is overturned by way of judicial review, or if a new assessment decision is taken because significant new evidence has come to light. Under the [civil procedure rules for judicial reviews](#), claimants can challenge Merton compliant age assessments conducted by local authorities and the NAAB through judicial review within 3 months of the assessment being made.

For further information on judicial reviews of NAAB decisions on age and on the NAAB conducting new assessment, refer to the '[Judicial reviews](#)' and '[New information following an age assessment decision](#)' sections of the National Age Assessment Board guidance.

## Local authority age assessments

While a local authority may have primarily undertaken an age assessment for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the individual, the assessment is also relevant to the age they are treated by the Home Office for the purposes of exercising immigration functions. Therefore, where a local authority conducts an age assessment itself (an assessment under 50(3)(b) of the 2022 Act), it must inform the Secretary of State in writing of the result of its assessment and, if requested by the Home Office, provide it with such evidence as the Home Office reasonably requires for it to consider the local authority's decision.

Local authority age assessments are not binding on the Home Office when exercising immigration functions. However, Home Office officials must give considerable weight to the decision on age made by social workers, recognising the particular expertise they have through working with children on a daily basis. In the absence of a NAAB age assessment, it is Home Office policy to give prominence to

a local authority Merton compliant age assessment and it is likely that the local authority Merton compliant age assessment will be decisive in most cases where an age assessment has not been conducted by the NAAB. For example, a local authority Merton compliant 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 Merton compliant age assessment and discuss the matter with those who conducted the assessment 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, where an age assessment has been conducted by a local authority, there is an independent obligation on the Home Office to evaluate the evidence and consider whether the 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 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 and procedural requirements set out in the Merton judgment and further case law
- confirmation that the age assessment has been carried out in compliance with the guidelines in the Merton case and further case law

The local authority age assessment report or proforma may not always assign an exact date of birth to the claimant in the event they have been assessed to be an adult. It is highly preferable that the assessment assigns an exact date of birth in this circumstance. If a date of birth is not assigned, a date of birth should be requested

from those who undertook the assessment, but this should not be insisted upon if they refuse to do so.

It is also important to remember that liability for detention rests with the Home Office. If an officer cannot satisfy themselves that a local authority 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 decision on age 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 – refer to [New information following an age assessment decision](#) for further information
- 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 - under the [civil procedure rules for judicial reviews](#), claimants can challenge a Merton age assessment though judicial review within 3 months of the assessment being made

## Obtaining the results of a local authority Merton compliant age assessment

If a Merton compliant age assessment has been undertaken by a local authority, you must request a copy of the age assessment report from those who conducted the assessment and confirmation from them 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 Merton age assessments](#)).

The age assessment information sharing proforma contains instructional text on the information required by the Home Office to ensure that a comprehensive age assessment is case law compliant. Their use in cases where the age assessment report is not disclosed is preferred practice in cases where a comprehensive age assessment has been conducted, but its use is not binding on the party which conducted the assessment. 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 party which undertook the assessment 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 party which conducted the assessment to request this. They should be reminded that section 50(4) of the 2022 Act provides a mandatory statutory power requiring local authorities to provide the Home Office, on its request, with such evidence as it reasonably requires for the Home Office to consider the local authority's decision on age and that they must inform the Home Office in writing of the result of its assessment.

If the report or proforma (or equivalent) is still not provided, the issue must immediately be escalated to your senior caseworker and onwards, if necessary, until the evidence is obtained. Refer to the Age assessment joint working guidance for information on the process for obtaining evidence in this circumstance.

## 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 into the jurisdiction of another local authority before a Merton compliant age assessment has been conducted by the entry local authority or NAAB, or before the entry local authority has determined whether an age assessment is required, 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 consider whether an age assessment is required and, if so, conduct the age assessment or request that the NAAB undertakes the assessment, where the NAAB has capacity to do so in line with its acceptance criteria

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 [Social worker accepts 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 [National Transfer Scheme Protocol](#) 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 [Other doubtful age cases](#) for guidance.

## Recording receipt of a local authority Merton age assessment

If a local authority Merton age assessment report or [age assessment information sharing pro forma](#) has been received, or notification received from the NAAB of the outcome of an age assessment they have conducted, you must clearly minute the case file to record:

- what evidence has been received
- when it was received
- the name of the party which undertook the assessment

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

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

## 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

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# Documentary evidence of age submitted during or after a Merton compliant age assessment

This section provides you 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 Merton compliant age assessment conducted by a local authority.

As Merton compliant age assessments conducted by the National Age Assessment Board (NAAB) are binding on the Home Office for immigration purposes and, as a consequence, immigration and asylum decision making units do not need to make a separate decision on age following such an assessment, it can normally be assumed that evidence of age submitted to the Home Office relevant to the assessment of age, will have been taken into account by the NAAB. However, if immigration and asylum decision making units identify evidence which was not taken into account when the assessment was conducted, this must be brought to the attention of the NAAB as soon as possible.

For further information on the use of submitted identity documents, refer to the [Documentary Evidence of Age](#) section.

## Scientific age assessments

There is varied practice among European countries who use scientific age assessments to support decision-making in age dispute cases. There is no method, scientific or social worker-led, that can predict age with precision and therefore, care must be taken when assessing what weight is appropriate to attach to any scientific assessments. The Home Office have been exploring the use of scientific age assessment, but it is not current policy to commission scientific assessments.

## Age Estimation Science Advisory Committee (AESAC)

As part of exploratory work, in December 2021, the Home Office Chief Scientific Adviser commissioned the independent Age Estimation Science Advisory Committee (AESAC) to advise on scientific methods of age assessment. In their report, ["Biological evaluation methods to assist in assessing the age of unaccompanied asylum-seeking children"](#), they recommend four scientific methods to aid age estimation. These are:

- Radiography (x-ray) of the third molar (wisdom teeth)
- Radiography (x-ray) of the bones of the hand and wrist
- Magnetic resonance imaging (MRI) of the knee bones
- MRI of the clavicle (collar bone)

These scientific methods were specified for the purpose of age assessment in The Immigration (Age Assessments) Regulations 2024 which came into force on 10 January 2024 to analyse the maturation of teeth and bones.

Key recommendations from AESAC are as follows:

- the scientific age assessment should supplement the existing Merton-compliant method of age assessment
- the scientific evidence should be used to consider whether the age claimed by the unaccompanied child is possible rather than be used to answer the specific question of how old that person is or whether they are under or over 18 years of age
- it is key that methods used for age assessment have a low chance of misclassifying children as adults and vice versa - AESAC note that when used in isolation, only measuring one biological marker as a method of age assessment has a level of uncertainty in assessing chronological age - therefore, the AESAC report advises that images are combined dependent on the sex and claimed age of the person being assessed - this involves taking images of up to three different areas of the body by x-ray and MRI
- the AESAC advocates a likelihood ratio approach, that is to say a calculation comparing the social worker assigned age to the age disputed person's claimed age, using the results of the scientific age assessment methods to show which is more likely to be correct - the likelihood ratio method offers a logical and consistent summary of the evidence and permits greater confidence in the assessment of whether the claimed age is possible - the likelihood ratio is widely recognised as the appropriate way to summarise evidence in favour of 2 alternative hypotheses ([Royal Society 2020](#)) - in this case the hypothesis that the assigned age is correct versus the hypothesis that the claimed age is correct

The use of ionising radiation in the United Kingdom is regulated by the Justification of Practices Involving Ionising Radiation Regulations 2004 (JoPIIRR). X-rays carry a low exposure to ionising radiation which has been justified in law for the purpose of age assessment in The Justification Decision (Scientific Age Imaging) Regulations 2024 in accordance with the JoPIIRR 2004.

The Home Office are not currently commissioning scientific methods of age assessment specified in the Immigration (Age Assessments) Regulations 2024. Should the Home Office operationalise scientific age assessment methods, new guidance will be published. However, if a local authority commissions scientific methods of age assessment specified in the Regulations, if an age-disputed person (or a person making a statement on their behalf) refuses to consent to the specified methods without reasonable grounds, section 52(7) of the 2022 Act requires that the decision maker take into account, as damaging the age-disputed person's credibility, the decision not to consent to such methods when deciding whether to believe any statement made by the person (or on their behalf) which is relevant to the assessment of age.



## If a scientific assessment formed part of a local authority's assessment of age

The local authority must consider whether the weight given to the scientific evidence was appropriate in order to satisfy that the report is Merton compliant. When utilising the results of scientific methods of age assessments, you should keep in mind that 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).

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). 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 or 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 was appropriate to attach to dental x-ray reports or assessment of bones. If unsure about how to proceed or you are considering whether the local authority social worker attached too little or too much weight, you must seek guidance from a senior caseworker or officer. Similar care is required when considering 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.

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 a Merton compliant age assessment is being conducted and those conducting the assessment are aware of the dental age assessment or x-ray report, Merton case law requires that this evidence is considered as part of their assessment. If there is no evidence that this report was considered or the assessing social workers were not aware of the report, the report must be immediately brought to the attention of the party which undertook the assessment and, if the assessed age within the report differs to the age the claimant was assessed to be by the Merton compliant age assessment, they must be asked to consider this evidence and review their assessment.

## 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 a Merton compliant age assessment is being conducted and those conducting the assessment are aware of the paediatrician report, Merton case law requires that this evidence is considered as part of the assessment. If there is no evidence that the report was considered or the assessing social workers were not aware of the report, the report must immediately be brought to the attention of the party which undertook the assessment and, if the assessed age within the paediatrician report differs to the age the claimant was assessed to be by the Merton compliant age assessment, they must be asked to consider this evidence and review their assessment.

## **Age assessments by European Union 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 through the applicable British Embassy/High Commission 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 EU member states is not standardised and, therefore, must be judged on its individual merits in accordance with the guidance within this instruction.

In all cases, if the claimant enters or is already in local authority care, the local authority must be made aware of relevant information that supports or casts doubt on the claimed age in age dispute cases as soon as possible.

Further guidance on using information obtained through the Dublin Regulation and Eurodac for age assessment purposes is available in the Using information obtained through the Dublin Regulation and Eurodac for age assessment purposes guidance.

### **Related content**

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# Weighing up conflicting evidence of age

This page provides you with guidance on considering Merton compliant age assessments conducted by local authorities alongside conflicting evidence of age.

As Merton compliant age assessments conducted by the National Age Assessment Board (NAAB) are binding on the Home Office for immigration purposes and, as a consequence, immigration and asylum decision making units do not need to make a separate decision on age following such an assessment, this section does not apply to age assessments conducted by the NAAB.

In the absence of documentary proof of age, including a Merton compliant age assessment conducted by the NAAB, it is Home Office policy to give prominence to a Merton compliant age assessment conducted by a local authority and it is likely that in most cases the Merton compliant age assessment will be determinative. However, all available relevant sources of information must be considered and an overall decision made in the round. For example, if an individual has received a 'significantly over 18' decision previously and has since been sentenced for a criminal offence as an adult, checks must be made to establish whether the court, police or probation service held doubts about their assessed age through the criminal process and evidence of their views, although not determinative, should be taken into account. Further guidance on age disputes and the criminal courts is provided in sections '[New Information following a decision on age](#)' and '[Criminal Court findings on Age](#)'.

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).

All available relevant sources of information should have been taken into account by the local authority when completing the Merton compliant age assessment. Where there is reason to believe that the assessment has not taken all the evidence into account, you must immediately request clarification from the local authority and, where it is confirmed that they did not do so, request that they review their assessment.

The Age assessment joint working guidance must be referred to when considering conflicting evidence.

## Multiple Merton compliant age assessments conducted by the same local authority

Where a Merton compliant age assessment has been conducted, but the local authority which undertook the assessment 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](#).

## **Multiple Merton age assessments conducted by different local authorities**

Sometimes claimants may undergo Merton compliant age assessments by more than one local authority resulting in conflicting outcomes on age. This situation may occur, for example, 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 party which conducted the second assessment must be asked to confirm whether it has considered the findings of the first assessment.

Deciding whether to accept the second assessment depends on all the evidence in the case and, in particular, the reasons why the second assessment has come to a different conclusion from the first assessment (for example, if new evidence has come to light which was not known by when the first assessment was conducted). The reasons must be recorded on Atlas.

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](#).

### **Related content**

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# Implementing the decision on age

This page tells you about implementing the Home Office's decision on the claimant's age for immigration purposes.

## Claimant is found to be a child

Unless the claimant has been age assessed by the National Age Assessment Board (NAAB), in which case they will be notified within the age assessment report that the NAAB's decision on age is binding for immigration purposes, if the Home Office agrees with the decision made by a local authority, 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 (if applicable), on the claimant's legal representative or, if the claimant is not represented, on the claimant.

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 previously provided evidence as an adult such as a Preliminary Information Questionnaire or Streamlined Asylum Questionnaire and/or was previously interviewed as an adult and is now accepted to be a child, ASL.2382 provides the claimant with the limited ways that Home Office may use this evidence as detailed in the below paragraph, and not as a basis to decide the child's asylum (protection) claim. 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, with a caseworker trained in interviewing children with a responsible adult present. For further guidance on substantive interviews for children, refer to Children's asylum claims.

If the claimant is re-interviewed, the evidence provided when they were considered to be an adult by the Home Office such as a Preliminary Information Questionnaire or Streamlined Asylum Questionnaire and/or first (adult) interview record should not be used in connection to their asylum (protection) claim beyond the extent that if there are notable discrepancies between what they have told the Home Office previously and what is stated during the second interview, further clarification should be sought. The claimant **must** be allowed to make clarifications (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. Specific safeguarding issues that were raised in their first (adult) interview record should also be explored further if necessary.

A copy of these letters must be uploaded to the 'Compliance and Enforcement' case card on Atlas and a note added to show that this has been done.

Depending on whether the claimant resides in England or Scotland respectively, if the claimant was provisionally treated as a child until a decision on their age was made, the Independent Unaccompanied Asylum-Seeking Children Support Service (IUSS) (previously known as 'Refugee Council's Children's Advice Project') or the Scottish Guardianship Service **must** be informed that the claimant is now accepted to be a child. If the claimant was previously treated as an adult, but has now been assessed to be a child, a referral to the IUSS or the Scottish Guardianship Service **must** be made promptly.

For further guidance on the IUSS and the Scottish Guardianship Service refer to Children's asylum claims.

## 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
- unless the claimant has been age assessed by the National Age Assessment Board (NAAB), in which case they will be notified within the age assessment report that the NAAB's decision on age is binding for immigration purposes, you must also complete and issue letter IS.97M, while taking account of the following:
  - this must be served on the local authority (if the claimant is in local authority care), on the claimant's legal representative or, if the claimant is not represented, on the claimant
  - 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 Atlas

It is important that any changes to the claimant's date of birth are accurately recorded on Atlas, 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 Atlas:

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### Official – sensitive: start of section

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

---

### Official – sensitive: end of section

6. Replace the estimated or claimed date of birth on the personal details screen with the assessed date of birth (if different).
7. A note must be made of the estimated date of birth on the notes screen, including when it was used.
8. A note must be made to show that the National Asylum Allocation Unit (NAAU) has been informed of the outcome of the age assessment.
9. If the claimant is now accepted as a child, the relevant 'person alert' must be raised under 'safeguarding and medical' alerts to show that the claimant is an unaccompanied or accompanied child.

If, following the decision on age, a change in circumstances means that the claimant's age is again in doubt for immigration purposes and another decision on age needs to be made, a new 'Age Disputed' person alert flag should be raised, the details recorded in the free text box and the relevant documents uploaded into the 'Compliance and Enforcement' case card in Atlas.

## 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](#) (or equivalent). Though the claimant is not eligible for this support, they may be eligible



for asylum support, administered by the Home Office, under [section 98, section 95 or section 4 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 1989 (or equivalent)
- 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. Atlas 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 asylum 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 discontinue 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

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# Age assessment disputed by the claimant

Where a claimant has been age assessed as an adult by the Home Office and the decision significantly relied on a Merton compliant age assessment conducted by a local authority, but the claimant maintains that they are a child, it is important to establish the full reasons for the outcome of the Merton assessment. If the Home Office does not already possess a copy of the age assessment report, as opposed to the pro-forma (or equivalent), you must request the assessment report from the local authority which undertook the assessment 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 the age assessment report. 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 asylum appeal hearing in which the claimant's age is an issue, 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.

As Merton compliant age assessments conducted by the National Age Assessment Board (NAAB) are binding on the Home Office for immigration purposes and, there is no independent obligation on Home Office immigration and asylum decision making units to evaluate the evidence and consider whether the NAAB age assessment is case law compliant. For this reason, the NAAB will notify the immigration and asylum decision making unit of their decision on age but will not provide a copy of the age assessment report. However, in the event that the claimant brings a judicial review challenging the NAAB's assessment of their age or they have appealed the decision on their asylum claim and their age is an issue, the NAAB will be required to disclose the report to the Tribunal or Court, as it is important that the Tribunal or Court judge has a copy of the report.

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 Merton compliant age assessment). In order to defend the Home Office's reliance on the Merton compliant age assessment at the appeal, you must:

- ask the party which undertook the age assessment 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](#).

#### **Related content**

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# New information following a decision on age

This section provides guidance on the process for assessing new evidence that may come to light after a decision on age has been made.

Age disputed individuals are expected to disclose, at the earliest opportunity, all relevant information they can provide to support the decision on their age and the process provides them with a number of opportunities to disclose this evidence. New evidence may come to the attention of the immigration and asylum decision making units, the National Age Assessment Board (NAAB) or a local authority after a decision on age has been made. Decisions on age will normally need to be reviewed if relevant new evidence of age is received (including, for example, in the grounds of an asylum appeal) and will need to be reviewed if there is a realistic prospect that the new information, if considered alongside the existing information relevant to age could result in the person being assessed as an age different to that assigned following the previous decision.

## Decision on age was based on a Merton compliant age assessment

While section 56 of the [Nationality and Borders Act 2022](#) sets out the framework for consideration of new information following an age assessment decision by a local authority or the NAAB (under sections 50 and 51 of the 2022 Act), including after an appeal process has been concluded, this section has not been commenced at the time of publishing this guidance document.

If you receive new evidence, the party which conducted the age assessment must normally be made aware of the new evidence and be invited to review their earlier decision.

## Local authority age assessments

Pending the commencement of section 56 of the 2022 Act, if new relevant evidence is provided to the local authority, Merton caselaw requires local authorities to consider it and review the assessed age. You must consider the local authority's view before you reconsider the decision on age.

## NAAB age assessments

Pending the commencement of section 56, the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023 specifies a transitional framework for the consideration of new information by the NAAB. For further information on the consideration of new information by the NAAB, refer to the 'New information following an age assessment decision section' of the National Age Assessment Board guidance.

If you come across new information for a case previously age assessed by the NAAB, please notify the NAAB by email with 'New information of age (case reference)' in the subject line".

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

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# Making the asylum decision while doubt over the claimant's age remains

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 Merton compliant age assessment report or age assessment information sharing form, you must make every attempt to contact the party which conducted the age assessment to obtain this as soon as possible to minimise the delay in making the decision on the claim. In these circumstances, if the age assessment was conducted by a local authority, 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 party which conducted the assessment 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.

Refer to the 'Duty to Remove, Asylum Support, and Inadmissibility' guidance for further information.

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# Legal challenges

This page tells asylum decision making units or presenting officers about the actions to take at the appeal stage (appeals against immigration decisions) in cases where the claimant's age was disputed by the Home Office and about the actions to take in the event a court makes a finding on age.

The [Nationality and Borders Act 2022](#) (the 2022 Act) provides for a new statutory right of appeal to the First Tier Tribunal against an age assessment decision that does not align with the claimed age of the individual. Following commencement of the relevant sections of the Act, these appeals will replace judicial review as the mechanism by which age assessment decisions are challenged. Both decisions made by the National Age Assessment Board (NAAB) and local authorities will be subject to this appeal regime. This guidance will be updated following commencement of the appeal provisions within the 2022 Act. In the interim, age assessment decisions taken by the NAAB and by local authorities are subject to the judicial review process. Additionally, an individual's age may be the subject of a judicial finding from the First Tier Tribunal where it was a matter of relevance in an appeal against an immigration or asylum decision. Further guidance on judicial review challenges to NAAB decisions on age can be found in the National Age Assessment Board guidance.

## 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 Merton compliant age assessment was conducted, it is important that the judge can assess the reasoning for the assessment of age and can therefore see the full report. If, prior to the case management review (CMR), a Merton compliant 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 asylum decision making unit or presenting officer must request a copy of the assessment report. Refer to [Age assessment disputed by the claimant](#) for guidance on obtaining the assessment report at the appeal stage.

## 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 Merton compliant 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 Merton compliant 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 during asylum appeals

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'

However, Rawofi was decided prior to the coming into force of section 32 of the 2022 Act. That provides that, in relation to asylum claims, the standard of proof is the balance of probabilities in relation to: (a) whether the asylum seeker has a characteristic which could cause them to fear persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion (or has such a characteristic attributed to them by an actor of persecution), and (b) whether the asylum seeker does in fact fear such persecution in their country of nationality (or in a case where they do not have a nationality, the country of their former habitual residence) as a result of that characteristic. As an asylum seeker's age is a characteristic that could cause them to fear persecution on the basis of their membership of a particular social group, the appropriate standard of proof is the balance of probabilities.

In age assessment judicial review proceedings (and in future age assessment appeals) there is no burden of proof on either party and the Court's task is to decide the issue on the 'balance of probabilities' 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.

## Asylum and Immigration appeal judicial findings on age

If during the determination of an asylum or immigration appeal the immigration judge finds the appellant to be a child, the Home Office will accept this outcome for immigration purposes 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 the decision is successfully appealed. Strong evidence is required to appeal, for example which indicates that the immigration judge has not given due weight to important information.

Where the Home Office's decision on age was based on a Merton compliant age assessment, you must:

- promptly send the appeal determination to the party which conducted the assessment (the National Age Assessment Board (NAAB) or local authority)
- request that they reassess the claimant, ensuring that they take into account any new evidence, including evidence presented at the tribunal that was not previously before them, and give due respect to the basis and reasoning of the immigration judge's finding (in the case of age assessments conducted by the NAAB, the information would be considered under the framework for considering further evidence (made under the transitional provisions set out in the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023 - refer to new information following a decision on age for further information)

- request that they notify the immigration and asylum decision making unit in writing of the outcome of this assessment
- notify them of the deadline
- in the event the decision on age was made by the NAAB and the claimant is being looked after by the local authority, notify the local authority that the NAAB has been asked to review its decision on age in light of the findings of the Immigration judge
- while these discussions are taking place, you must notify the claimant and their legal representative that the local authority or NAAB is currently considering the immigration judge's findings and whether or not to amend their decision on age

If the party which conducted the Merton compliant age assessment (NAAB or local authority) has good reason not to accept the immigration judge's decision on age, and, in the case of the NAAB, made another decision on age under section 50 and 51 of the 2022 Act, which found the claimant to be a different age than that assigned to them by the immigration judge, consideration must be given to appealing the tribunal's decision. However, you need to be mindful that the deadline for appealing a First-tier Tribunal determination is 14 days after it was received (timescales differ for onward appeals following an Upper Tribunal determination). An out of time appeal is very unlikely to be granted permission to proceed.

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.

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 Merton compliant 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.

The local authority is not bound by a finding of fact by the First Tier Tribunal as to the age of a claimant (in the case of age assessments conducted by the local authority,

see [R on the application of PM v Hertfordshire County Council \[2010\] EWHC 2056 \(Admin\)](#)).

## Judicial review findings on age

An age assessment decision by the NAAB or 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 party which conducted the age assessment on the issue of whether the individual 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. The courts, in exercising their judicial review function may make a final finding on age which is binding on all agencies (known as a declaration in rem), including the Home Office and the local authority [R. \(on the application of S\) v Croydon LBC \[2011\] EWHC 2091 \(Admin\)](#).

## 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.

If an individual who has previously been assessed as 'significantly over 18' from an initial decision on age and was sentenced by the criminal courts as an adult (or child) and has since had a decision on age stating that they are child by a local authority, then reasonable steps must be carried out to endeavour to establish the reasoning for decision on age taken by the court and, ideally, whether age was considered by the police and probation service – for example, take reasonable steps to obtain court transcripts if they are available, unless it is confirmed they do not contain information relevant to the assessment of age. These enquiries must be conducted before any new decision on age (unless it was conducted by the National Age Assessment Board (NAAB) which is binding on the Home Office) is accepted for immigration purposes.

If information relevant to the assessment of age by the NAAB or a local authority as detailed above is obtained following these enquiries prior to an age assessment taking place, this information must be shared with them, where reasonably available (for example, where court transcripts/Judge's Sentencing Remarks have been produced for a previous criminal hearing) to enable them to take into account that information when making their decision on age.

In non-immigration detained cases, if the unaccompanied 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 02/2019 'Care and management of age dispute cases in the detention estate' for further information.

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# Sharing evidence of age and joint working with local authorities

This page provides you 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 in the event the claimant is being looked after by the local authority or has approached them claiming to be an unaccompanied child.

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 to be an adult, 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 to be an adult
- 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 [Asylum and Immigration appeal judicial findings on age](#).

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# Asylum credibility inference

This page provides you with guidance on taking into account asylum credibility issues raised in the age assessment process.

## Asylum credibility issues raised in the Merton compliant age assessment

The Home Office immigration and asylum decision making units do not request Merton compliant 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 you 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 Instructions
- Detention Services Order 02/2019 'Care and management of post detention age claims'

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 individual 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 decision on age](#) for information on the very significant consequences of failing to adhere to the legal powers and policy on detaining children.

## Assessing age in adult detention

The assessing age detention policy has in-built protections to ensure it is compliant with [section 55 of the Borders, Citizenship and Immigration Act 2009 duty](#). The threshold that must be met for individuals to enter or remain in detention following a claim to be a child is a high one and is only met if the benefit of doubt afforded to all individuals prior to any assessment of their age is made is then displaced because the individual has met one or more of the categories listed below:

- there is credible and clear documentary evidence that they are 18 or over
- a Merton compliant age assessment is available stating that they are 18 years of age or over which the Home Office accepts after carefully considering the findings alongside any other available sources of information
- 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 there is little or no supporting evidence for their claimed age
- the individual (all of the following 7 criteria must apply):



- prior to detention, gave a date of birth that would make them an adult and/or stated they were an adult
- only claimed to be a child after a decision had been taken on their asylum claim, entry to the UK or immigration status
- only claimed to be a child after they had been detained
- has not provided credible and clear documentary evidence proving their claimed age
- does not have a Merton compliant age assessment stating they are a child
- does not have an unchallenged court finding indicating that they are a child
- physical appearance and demeanour very strongly suggests they are significantly over 18 years of age

If an individual claims to be a child in detention they will be appropriately managed and a risk assessment of the individual including consideration of the facilities of the IRC (for example, only permitting limited observed contact with adults and/or segregating the individual from adults as appropriate) will be conducted whilst either:

- a prompt decision on their age is made
- arrangements are being made for their release into the care of the relevant local authority, where appropriate

In non-immigration detained cases, if the unaccompanied 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 02/2019 'Care and management of age dispute cases in the detention estate' for further information.

It is necessary to appropriately protect individuals at this point in the process because it ensures they are not exposed to risks which might compromise their safety or welfare in the meantime. Officers must also refer to the '[Section 55 of the Borders, Citizenship and Immigration Act 2009](#)'.

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# Age dispute cases and criminal prosecutions

Some of those who claim to be children and whose claimed ages are disputed by the Home Office, including those who have been determined to be a different age than claimed for immigration purposes, may also be subject to criminal investigation and, subsequently, prosecution for immigration related crimes, such as under section 24 or 25 of the [Immigration Act 1971](#) (1971 Act). Any decision on age made by the Home Office for immigration purposes is not binding on the criminal courts. Where the court has doubt whether the individual is a child or not, the court can make a separate decision on the age of an individual based on the available evidence or can order a Merton compliant age assessment. It is therefore essential when making referrals in these cases to a Criminal and Financial Investigation (CFI) team for potential criminal prosecution, that CFI are provided with the following information:

- that the claimant claimed to be a child but they were determined to be significantly over 18 or their claimed age was disputed (and they were referred for further consideration of their age by a local authority) by the Home Office
- attach copies of the age assessment decision letter (IS.97M or IS.98M), the age assessment minute sheet (ASL.3596 (BP7)) and the Initial decision on age factsheet

CFI teams are responsible for investigating organised immigration crime and disrupting and dismantling organised crime groups (OCGs) and deal with certain immigration related criminal investigations. CFI officers must reveal the information to custody staff upon arrival in the custody suite and reveal to the Crown Prosecution Service (CPS) the information relating to the age dispute in the MG3 Form when referring for charging advice and any further information regarding this which may be requested by the CPS.

Further information on the general policy and processes to be followed by Immigration Compliance and Enforcement (ICE) teams on encountering individuals who could be subject to criminal prosecution, refer to Dealing with potential criminality.

## Abbreviated age assessments

While those whose physical appearance and demeanour very strongly suggests they are significantly over 18 are treated as adults for immigration purposes from the point the decision is made (a 'significantly over 18 decision'), it is recognised that in cases where individuals are identified and arrested on initial encounter for immigration offences (for example, for facilitating illegal entry having been positively identified as piloting a small boat):

- that the swift nature in which individuals are identified and arrested means that they can be held on remand in adult prisons very shortly after arrival

- in the case of age disputed persons who have been determined to be adults on the basis of significantly over 18 decisions, while these decisions will have been made in accordance with the Assessing age guidance, swift detention and arrest limits their ability to approach a local authority for further consideration of their age, unless further investigation is directed by the CPS or the criminal court
- there are serious safeguarding risks which arise from prosecuting children as adults and with imprisoning children alongside adult criminals

As an additional safeguard to reduce the likelihood of children being prosecuted and imprisoned as adults for immigration offences under section 24 and 25 of the [Immigration Act 1971](#), the National Age Assessment Board (NAAB) can and will endeavour to conduct abbreviated Merton compliant age assessments as soon as possible after all the following circumstances are satisfied:

- a person has been treated as an adult for immigration purposes following a significantly over 18 decision in accordance with the Assessing Age guidance
- that person has been identified by Criminal and Financial Investigations team (CFI) for potential criminal charges for an immigration offence

However, this is subject to the circumstances as set out in the National Age Assessment Board guidance (see sections Circumstances an abbreviated age assessment may not be conducted and Abbreviated age assessment determined to be inappropriate) when an abbreviated age assessment will not be conducted or an abbreviated age assessment is deemed inappropriate, even if the above circumstances are met.

Generally, the abbreviated age assessments would be conducted ahead of a decision by CFI to arrest and refer the individual as an adult to the CPS for an immigration offence with a few potential exceptions, in particular:

- those identified for potential prosecution for a high harm criminal offence where the assessment may need to be conducted after arrest due to the very swift nature in which claimants suspected of high harm offences are arrested upon arrival in the UK (high harm offences for the purposes of this guidance includes one or more of the offences detailed at [Schedule 18 of the Sentencing Act 2020](#) - this will include anyone suspected of or convicted of one of these offences)
- those involved in a significant incident, such as a death or injury at sea or on a beach launch site, and immediate arrest is required to preserve evidence and allow investigation action to be undertaken

In these circumstances, the abbreviated age assessment by the NAAB is likely to be conducted after arrest.

Abbreviated age assessments are considered by the Home Office to be an appropriate safeguard because the individuals subject to these assessments will have been determined to be adults following a significantly over 18 decision.

For further information on the abbreviated age assessment process, refer to the National Age Assessment Board guidance.

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## Other doubtful age cases

In some immigration age dispute cases, the claimant will not be claiming to be an unaccompanied asylum-seeking child (UASC) – for example:

- they are living with relatives and claim to be an accompanied asylum-seeking child (AASC)
- they arrive in the UK and claim to be a child dependent on a family member's asylum claim
- they claim to be an unaccompanied child, but have not claimed asylum
- they claim to be a child dependent on a family member's leave to remain application

In many cases there is no reason to doubt the claimant's age. While in other cases the position is more doubtful, and a careful assessment of their age is required. In some cases, the applicant may not honestly know their exact age or there are plausible reasons why the claimant may have mistaken their age, while in other cases an applicant may have deliberately provided an incorrect age to obtain a real or perceived benefit.

As with those claiming to be UASC, if an individual in one of the above categories does not have any definitive documentary evidence to support their claimed age and their claimed age is doubted, a decision will need to be made on their age taking account of all available sources of relevant information and evidence.

Although the guidance within this asylum instruction is principally written to be applied to those who claim to be UASC and whose ages are doubted, with a few potential exceptions much of the general substance of the guidance can equally be applied to other person types subject to decisions under the Immigration Acts and rules. One of the potential and significant exceptions is the availability of the option of referring cases to a local authority for a Merton and further case law compliant age assessment. Even if the Home Office has disputed the claimant's age, there is no obligation on the local authority to conduct an age assessment in this scenario or to make a referral to the National Age Assessment Board (NAAB) for an age assessment to be conducted, unless the local authority has reasonable doubt that the claimant in relation to whom they have exercised or may exercise functions under relevant children's legislation is the age that they claim (or are claimed to be). Even if these circumstances are satisfied, whether or not to undertake an assessment is a decision for the local authority.

In cases where the claimant is claiming to be child but there is doubt over their age, or in cases where their claim to be an adult is doubted and they are suspected to be a child, and in relation to whom the local authority has exercised or may exercise functions under relevant children's legislation, you must:

- make the local authority 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 or request that the NAAB conducted 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 (see accepting the claimed age in cases where the claimed age is doubted for further information on when to accept such a decision)

If the local authority declines to undertake an age assessment or they have not exercised or will not exercise functions under relevant children's legislation, you should consider whether it is appropriate to make a referral to the NAAB for an age assessment to be conducted (refer to [When the Home Office can make a referral to the NAAB](#) for further information).

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# Glossary

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

Term	Definition
Accompanied asylum seeking child (AASC)	<p>An AASC is a child who is applying for asylum in their own right and either:</p> <ul style="list-style-type: none"> <li>• forms part of a family group</li> <li>• is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement</li> </ul>
ADCS (The Association of Directors of Children's Services Ltd)	<p>ADCS is the national leadership association in England for statutory directors of children's services and their senior management teams. ADCS members hold leadership roles in children's services departments in local authorities in England. They specialise in developing, commissioning and leading the delivery of services to children, young people and their families, including education, health, youth, early years and social care services.</p>
Age disputed person	<p>As defined in section 49 of the <a href="#">Nationality and Borders Act 2022</a> (2022 Act), an individual who requires leave to enter or remain in the United Kingdom (whether or not such leave has been given), and in relation to whom a local authority, a public authority specified in regulations under section 50(1)(b) of the 2022 Act, or the Home Office, has insufficient evidence to be sure of their age.</p>
Atlas	<p>Atlas is the primary case working and operational databases used throughout the Home Office to record personal details of foreign nationals who pass through the immigration system for any reason.</p>
Child	<p>An individual under the age of 18 years (this is defined in legislation relating to children such as <a href="#">section 105 of the Children Act 1989</a> and <a href="#">section 55 of the Borders, Citizenship and Immigration Act 2009</a>).</p>
Juxtaposed controls	<p>The UK operates border controls in France, Belgium and the Netherlands. This allows Border</p>

Term	Definition
	<p>Force officers to check passengers and freight destined for the UK before they begin their journey. These ‘juxtaposed controls’ are in place at Calais and Dunkirk ports, at the Eurotunnel terminal at Coquelles and in Paris Gare du Nord, Lille, Calais-Frethun, Brussels Midi and Amsterdam / Rotterdam stations for Eurostar passengers.</p>
Local authority (LA)	<ul style="list-style-type: none"> <li>• a local authority within England and Wales within the meaning of the Children Act 1989)</li> <li>• a council constituted under section 2 of the Local Government etc (Scotland) Act 1994</li> <li>• a Health and Social Care Trust in Northern Ireland established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991</li> </ul>
Merton compliant age assessment	<p>A social worker conducted age assessment which adheres to the principles set out in <a href="#">B v London Borough of Merton [2003] EWHC 1689 (Admin)</a> and further case law. This may be either a full assessment or an abbreviated (abridged) assessment.</p>
National Age Assessment Board (NAAB)	<p>The NAAB is a decision-making function in the Home Office, established through sections 50 and 51 of the 2022 Act, which primarily consists of social workers and the social workers can conduct age assessments upon referral from a local authority or the Secretary of State.</p>
Relevant children’s legislation	<p>As defined under section 49(3) of the 2022 Act:</p> <ul style="list-style-type: none"> <li>• in relation to a local authority in England, any provision of or made under Part 3, 4 or 5 of the Children Act 1989 (support for children and families; care and supervision; protection of children)</li> <li>• in relation to a local authority in Wales, Scotland or Northern Ireland, any statutory provision that confers a corresponding function on such an authority</li> </ul>
Secretary of State for the Home Department (SSHD)	<p>Also referred to as the Home Secretary and is sometimes referred to as the Home Office within this guidance document.</p>



Term	Definition
Unaccompanied asylum-seeking child (UASC)	<p>A UASC is a child who is:</p> <ul style="list-style-type: none"> <li>• applying for asylum in their own right</li> <li>• separated from both parents and is not being cared for by an adult who, in law or by custom, has responsibility to do so</li> </ul>

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