

# **Age Assessment Practice Guidance for Scotland**

**Good practice guidance to support social  
workers, their managers and others  
involved in undertaking and contributing to  
age assessments in Scotland**

## **Acknowledgements**

This Guidance is a second revision of the original Age Assessment Practice Guidance: An Age Assessment Pathway for Social Workers in Scotland produced in 2012 by Glasgow City Council and the Scottish Refugee Council with contributions from COSLA, Edinburgh City Council, UK Border Agency and Legal Services Agency amongst others. The sections which have been revised in this second (2025) update are set out in the introduction at page 2.

With special thanks to the following agencies and representatives who have supported the 2025 updates of this Guidance:

COSLA (Will Tuladhar-Douglas)  
Glasgow City Council (Joanne Garrett, Laura Bouch, Janet McCulloch)  
Perth & Kinross Council (Jenni McRae)  
Renfrewshire Council (Martyn Campbell)  
Inverclyde Council (Joanne Reekie)  
JustRight Scotland (Andy Sirel)  
Social Work Scotland (Vivien Thomson)  
Guardianship Scotland - Aberlour (Catriona MacSween)

With continuing thanks also to the following agencies and representatives who drafted the updated 2018 Guidance, much of which remains in place following the 2025 revision:

Children & Young People's Commissioner Scotland (Megan Farr) COSLA (Mirren Kelly)  
Edinburgh City (Sean Bell, Becky Dunn)  
Glasgow City Council (Joanne Garrett, Keith Moore-Milne, Diane Cabrey) JustRight Scotland (Andy Sirel)  
NHS Greater Glasgow and Clyde (Rachel Morley) Police Scotland (Elaine Galbraith)  
Scottish Government/ Social Work Scotland (Belinda McEwan) Scottish Guardianship Service - Aberlour (Catriona MacSween) South Lanarkshire Council (Debbie Kennedy)  
Stirling Council (Michael Grassom)  
United Kingdom Visas & Immigration (UKVI) (Joanne Pierce)

Special thanks is given to the following groups for their contributions:  
Members of the Child Trafficking Strategy Group in Scotland  
COSLA Unaccompanied Asylum Seeking Children Working Group  
Chief Social Work Officers Group  
Scottish Association of Social Workers for additional review and revisions  
Young people with experience of the age assessment process  
Claire Houghton from Edinburgh University.

The 2018 partnership group would like to acknowledge the contribution of guidance published for England and Wales to the shaping of this document.

## **Important notice**

Throughout the document, the definition of a child is someone who has not yet reached the age of 18 years. This is reflective of the definition of a child in Section 40 of the Human Trafficking and Exploitation (Scotland) Act 2015.

Age assessment sits within a framework of immigration and child welfare law and this continues to evolve. The case law referred to in this guidance is intended to illustrate cases that are relevant to age assessments at the time of drafting this guidance. This is a developing area of law, therefore, the case law is subject to change and the cases referred to in this guidance should be used for reference only. In using this guidance, consideration should be given as to how any new case law will have a bearing upon the practice that is suggested here. Should you encounter a similar legal issue, we would recommend that you seek up to date independent legal advice.

With respect to any comments made within the Guidance which relate to information sharing and retention, it is important to ensure that action is in line with the UK General Data Protection Regulation as well as relevant data protection and human rights legislation. We would recommend that you seek specialist advice with respect to data protection. The Information Commissioners Office can provide further information.

The responsibility for ensuring that an age assessment is legally compliant remains with the relevant local authority. The Guidance is not statutory and should not be taken in any way as constituting, or as a substitute, for legal advice. In all undertakings, it is important that action is compliant with relevant data protection and human rights legislation, including children's rights as set out in the UN Convention on the Rights of the Child.<sup>1</sup>

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<sup>1</sup> [Convention on the Rights of the Child](#)

## 1. Introduction

The prompt for a revision to this guidance was to reflect the ways in which unaccompanied asylum-seeking children and young people present in Scotland. An increase of spontaneous arrivals, including an increasing number from adult asylum accommodation, has resulted in the increased use of brief enquiries to determine whether someone could be a child. This is often a pre-cursor to a full age assessment. The 2025 revisions are limited to:

- A full rewrite on section 3 (Initial Presentation) to reflect the numerous ways an unaccompanied asylum seeking child can present in a local authority area.
- Information on National Age Assessment Board (NAAB) in section 2.
- Partial update to section 4 on responsible adults, formerly referred to as appropriate adults
- Partial update to section 7 on documentation
- Appendix 1 brief enquiry template
- Update to Appendix 7 to include updated case law

Age assessments are a controversial and complex task and there is no way to conclusively determine a person's age. We recognise that the necessity to undertake an age assessment stems from the differences in support provided to adults and children. There has been much debate as to whether social workers should undertake age assessments at all. There is no global or even European consensus as to how best to undertake an age assessment, with some favouring physical assessments based on a medical model of assessment over a social model.

However, whilst acknowledging concerns, for young people whose age is unknown or disputed, age assessments are important. Age determines what a person's rights and entitlements are and what duties and powers apply when local authorities are considering whether or how best to support a young asylum claimant. In the absence of statutory guidance, the court system has been instrumental in setting out the minimum legal standards for an age assessment. The original case which set out these standards was *R (B) v Merton* [2003] EWHC 1689 (Admin), giving rise to the term "Merton compliant" age assessment (**see Appendix 6**). There have been several leading cases in England & Wales and in Scotland since and whilst case law can be subject to change, we have compiled in **Appendix 7** what appears to us to be, at the time of writing, the most relevant.

A legally compliant age assessment carried out to professional standards will serve the interests of both the young person and the assessing local authority, not least because of the possibility of a legal challenge to any decision. A legally compliant age assessment cannot be made solely on the basis of appearance and should be a holistic one, taking account of the young person's appearance, demeanour, background and interaction with others. Adopting assessment practices that are in line with the Getting It Right For Every Child (GIRFEC) national approach in Scotland which puts the rights and wellbeing of children and young people at the heart of the process will assist in avoiding unnecessary distress to the young person and cost later on.

Age assessments are triggered by uncertainty and their completion is frequently a difficult task. Much of this is due to the absence of easily verifiable information and a lack of straightforward physiological or cognitive tests which are not invasive and that can give a definitive answer with a narrow margin of error. Currently, best practice would appear to involve a blend of knowledge and experience, comprehensive information gathering and reasoned, evidenced judgement, safeguarded within a procedure which is transparent and meets the requirements of existing case law (**see Appendix 7**). By virtue of their unique blend of knowledge, skills and experience, social workers are best placed to lead holistic assessments of this type. However, as with any other assessment, this should be supported as far as possible with multi agency contributions.

The responsibility for conducting age assessments sits with the local authority where the young person is residing in most cases. Since the publication of the original Age Assessment Guidance in 2012, information from local authorities indicates that there continues to be a highly uneven distribution between Scottish local authorities of cases requiring age assessment, with most concentrated in the major cities. This updated Guidance notes the challenge presented to authorities to meet what might (at the time of writing) be an infrequent or even rare requirement.

Whilst it is for local authorities to determine their approach to age assessment, the Guidance indicates the key principles and considerations that are relevant. It is intended to assist managers, social workers and other involved professionals by offering a framework that can be adapted to suit the particular situation of both the young person and the relevant local authority. Decisions about whether and how to apply the Guidance will rest with the assessing local authority and as each local authority (and individual social worker) will be required to account for their practice in the event of a legal challenge, it is hoped that this Guidance will give a sound foundation for developing good practice and decision making.

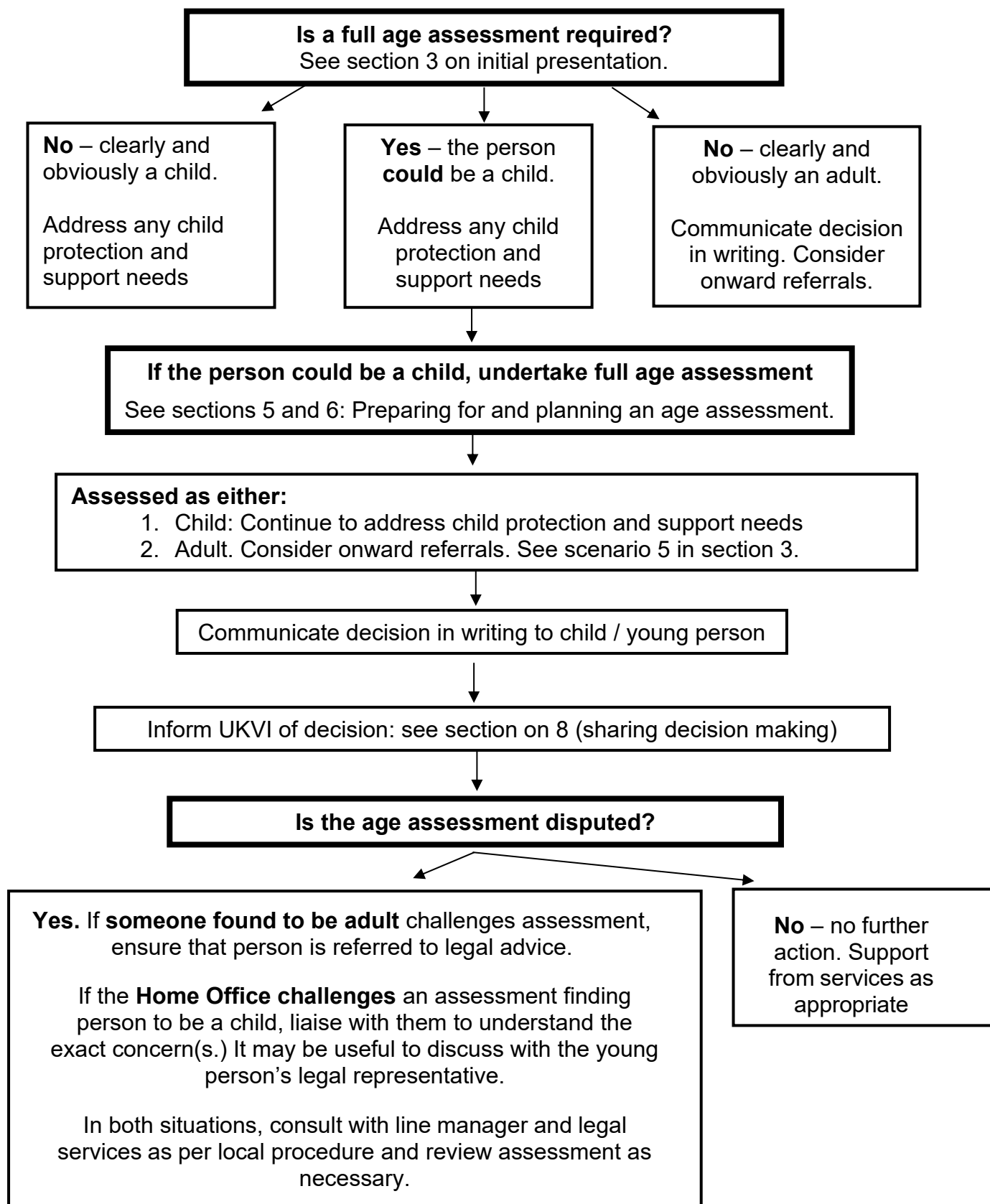
The process for carrying out age assessments should sit within a wider local framework of general procedures relating to children and young people. This includes for example child protection, looked after children and data protection considerations. This Guidance is intended to contribute to local arrangements to support practice in conducting age assessments which might include:

- A training and support strategy for social workers and others regarding working with young asylum seekers and refugees
- Arrangements to provide access to a suitable pool of staff who have experience in conducting age assessments and/or considering how staff can develop such experience before assuming responsibility for their production
- Opportunities for: job shadowing; continuous professional development through access to research; practice sharing through professional networks that include statutory and voluntary sector agencies; the provision of inter- professional advice
- Supervision arrangements that allow for reflection regarding assessment content and analysis and fit with assessment timescales
- The development of good practice arrangements concerning the identification, accreditation, use and support of interpreters
- Effective joint working arrangements, including data sharing agreements, between involved agencies, (particularly between health, educational and social

- work agencies) that allow for multi-agency involvement and timeous responses
- Quality assurance arrangements to support continuous evaluation

## 2. Flowchart : The Age Assessment Process

This diagram provides a visual support to written content in sections 3-8.



Local authorities are routinely responsible for conducting age assessments to determine the age of those being treated as age disputed unaccompanied asylum-seeking children in their care; these are conducted under section 50(3)(b) of the Nationality and Borders Act 2022 (“NABA”).

However, the National Age Assessment Board (NAAB) may also carry out age assessments under the provisions of the NABA. The NAAB, part of the Home Office, has a team of social workers who can undertake age assessments upon referral from a local authority or from the Home Office. It is important to note that the NAAB does not have capacity to handle all assessments and will assess referrals on a case-by-case basis.

Local authorities can refer to NAAB under section 50(3)(a) of NABA. Such referrals must comply with the requirements outlined in Home Office guidance, available [here](#). In cases where NAAB accepts this referral and conducts the age assessment, the decision of that age assessment is binding on all local authorities that are aware of the assessment (section 50(7)).

The Home Office may instruct NAAB to conduct an age assessment without a local authority referral; the age assessments in such cases are conducted under section 51 NABA. It is important to note that these age assessments are binding on the Home Office for immigration purposes but are not binding on local authorities who conduct assessments under different legislation. However, the results of a NAAB age assessment should be given due consideration and contact made with the NAAB for the details of the assessment before a decision is made to conduct a further age assessment or accept the individual's claimed age (if different from the assessed age).

The role of the NAAB is solely to conduct the age assessment; they will not be involved in the provision of care for the child or young person. In cases where they determine that the young person is an adult, it remains the local authority's responsibility to consider the provision of support to the young person in accordance with their existing statutory responsibilities.

### **3. Initial Presentation**

This section aims to explore the different ways an asylum-seeking child or young person can present or be referred to a local authority. It assists social workers in determining whether a brief enquiry or full age assessment is required.

#### **Key questions for practice:**

- When to do a brief enquiry? Has one been carried out in another local authority?
- How can I ensure that a brief enquiry is compliant with Merton principles?
- What information do I have, either from the young person, or other agencies such as Home Office, police, another local authority?
- Are there immediate safeguarding concerns, regardless of their age?

#### **How do unaccompanied asylum-seeking children present in Scotland?**

Unaccompanied asylum-seeking children arrive in Scotland through various routes, one of which is the National Transfer Scheme (NTS). Under this scheme, children arrive in the UK, usually in Kent, and are then transferred to other local authorities across the UK who are then responsible for those children.

Unaccompanied asylum-seeking children arrive in Scotland in many other ways; when they have not arrived through the NTS, they are often considered a “spontaneous arrival.” Local authorities may become aware of the presence in their area of a spontaneous arrival by a number of means, including the child themselves presenting to the local authority, or by the local authority being notified by another individual or agency such as a solicitor, police, adult asylum accommodation provider, or an organisation which supports asylum seekers.

Age assessments can be required regardless of whether the child has arrived through the NTS or spontaneously.

#### **Arrivals through the NTS where age is not agreed**

Local authorities will be allocated transfers of individuals via the NTS, including in circumstances where there is ongoing doubt as to whether the individual is an adult or child. In such cases, they are afforded the benefit of the doubt and treated as their claimed age for immigration purposes pending a further assessment. Local authorities must accept and care for them as a looked after child pending determination of their age following that assessment. In these circumstances, local authority staff may:

- Decide to accept the stated age and that an age assessment is unnecessary, having had time to observe and get to know the child in a more settled environment.
- Be unsure and decide to conduct a full age assessment.

- Refer to the Home Office’s decision-making function – the National Age Assessment Board (NAAB.) Please note that the Home Office may also make this referral. See section 2 for further detail on NAAB.

### **Spontaneous arrivals and brief enquiries**

Local authorities must, in accordance with section 25 of the Children (Scotland) Act 1995 (“the 1995 Act”), provide accommodation for any child, who is either residing or found in their area, who requires such provision because no one has parental responsibility for them. In practice, this means that regardless of how a child or young person has come to be in an area, the local authority must take steps to accommodate the child.

When determining the duty to provide accommodation, local authorities may have to make an assessment (referred to as a brief enquiry) on whether the young person is a child. It should be noted that a child is assumed to be the age they state unless/until proved otherwise and there may be circumstances when it is necessary to accommodate the child pending the brief enquiry. Local authorities are advised to contact the Home Office Age Dispute Team to determine if a previous assessment has been undertaken.

It might be that a person is or has been accommodated in another local authority immediately prior to presenting; in these cases, the responsibility should remain with the first local authority. However, there will be times when it is more complicated than this, and when the second local authority should make their own assessment of whether the person is a child and potentially provide accommodation for them. Some examples include but are not limited to:

1. Where the first local authority has conducted a brief enquiry and found that person to be an adult. In that situation the person is not the responsibility of the first authority as they were, at that time, deemed to be an adult. A brief enquiry in another local authority or a brief enquiry referred to as an ‘abbreviated Merton age assessment’ conducted by the National Age Assessment Board under Section 51 of the Nationality and Borders Act 2022 should not be solely relied upon, but their findings can be considered by the current local authority where that person is now presenting, although the latter is strongly advised to still make their own assessment of whether they could be a child.
2. The young person’s interests can affect which local authority is best placed to assume responsibility. There will be times when it is straightforward and appropriate to support a young person to return to the local authority area where they are or have been accommodated. However, there will also be times when this is not possible - and in these cases, the second local authority may be required to assume responsibility if they assess that the person could be a child.

Most importantly, there cannot be a situation where no local authority is responsible for providing a child with accommodation if a child fulfils one or more of the conditions set out in section 25(1) of the 1995 Act. In these circumstances, it will be crucial for local authorities to communicate clearly and promptly with each other to ensure that the child is supported without undue delay.

In cases where more than one brief enquiry has been conducted, subsequent local authorities may wish to consider a full age assessment so that the focus is on the individual accessing the correct services and preventing the possibility of multiple brief enquiries being carried out. In cases where a full age assessment has been completed and it has been determined that the individual is an adult, the person should be advised on how to seek their own legal advice.

### **When to conduct a brief enquiry and possible outcomes**

When a local authority is notified of a child presenting in their area, they should meet with the child without undue delay to assess their needs. There may be doubt over their age and so a brief enquiry may be required to determine whether the person is a child and requires provision of accommodation; the brief enquiry is not intended to be extensive or prolonged. It is a tool to ensure that those who are or could be children are provided with accommodation and cared for appropriately, whilst recognising that further assessment may be required. The three outcomes of a brief enquiry are outlined below:

**Outcome 1: The person is clearly a child.** There may be cases where it is clear that the person is a child and that the age stated is accepted. The child must be provided with accommodation without undue delay.

**Outcome 2: The person could be a child.** The assessing social worker(s) might be unsure if the person is a child and determine that the person could be a child but that this requires further assessment. In such cases, the young person should be provided with accommodation under section 25 of the 1995 Act. When accommodated, the stated age may be accepted and remove the need for further assessment but if any doubt remains regarding the person's age, a full age assessment should be conducted.

"If a local authority has reasonable grounds to believe that someone may be a victim of human trafficking, and is unsure of the person's age, but has reasonable grounds to believe they might be a child, then the local authority must assume the person is a child. In these circumstances, the provision of appropriate support by way of relevant children's services must be provided pending a full age assessment. The local authority must ensure the child is safeguarded and then referred into the National Referral Mechanism (NRM) process via the online referral form.

**Outcome 3: The person is clearly and obviously an adult.** The person is clearly and obviously an adult and, unless there is compelling evidence to the contrary, should be transferred from children's to adult services through the Home Office Routing and Validation Team. The young person must be provided with a written copy of the decision letter which includes the reasons for the decision. This should be done as soon as possible to ensure the young person is able to access legal advice. This move can happen at pace and so consideration should be given to referrals to adult social work services or third sector services to support the young person. Please see scenario 5 at the end of this section for fuller list of actions.)

In cases where the two assessors disagree at the brief enquiry stage on any assessment, a full assessment is advised as the fairest process to the young person.

Unaccompanied asylum-seeking children should be referred to the Guardianship Scotland and this referral should be made by the local authority when a brief enquiry determines that they are or could be child. More information can be found in Appendix 9.

### **Conducting a fair brief enquiry**

Section 5 of this guidance focuses on the requirements for a fair process in carrying out full age assessments, but it is important to note that a fair process must also be adhered to when carrying out brief enquiries whilst recognising, that in most cases, there is far less time to plan and respond to a call for a brief enquiry. In the English High Court judgment of R (HAM) v London Borough of Brent, the court ruled that all age assessments, whether brief or substantial, must be fair, with fairness depending on specific facts and circumstances of each individual case.

Local authorities often require interpreters at the brief enquiry stage, and to demonstrate fairness should also consider presence of a responsible adult. Urgency, geographical constraints and the physical location of the young person might mean that these services are not always available at the time of the brief enquiry and to wait for them might result in unnecessary delay or detriment to the young person. Even in cases where the visit is not immediate, it is recognised that some services, such as assistance from an interpreter, might only be available via video link or phone. It is strongly suggested that the rationale for the approach which has been adopted is documented, to demonstrate that local authority has considered the fairness of the process in relation to the young person.

See section 5 for more detailed guidance on interpreters, responsible adults, access to legal representation and considerations for an appropriate venue.

### **What should be included in a brief enquiry?**

As outlined, a brief enquiry is not intended to be extensive or prolonged. The enquiry only requires sufficient information to determine whether someone could be a child; beyond that, the social worker (s) should be considering a full assessment at a later date if doubt remains.

It is reasonable during a brief enquiry that the social worker (s) will ask questions to understand:

- The age and date of birth of the young person. Questions about the calendar used or how the young person knows their age may be posed.
- Where the young person has travelled from, and their journey to and within the UK. This is not intended to be exhaustive questioning, or mapping out a timeline, rather this provides the opportunity for the child or young person to give an account and to identify signs of exploitation, abuse or harm. It may be that some further questions or clarification are needed.
- Whether the young person has or can access any identity documents.
- Whether the young person has any family members in the UK.

It is important to be aware that young people may look and act older than they are

because of what they have experienced in their country of origin or on their journey to the UK. For this reason, in most cases appearance and demeanour should only be noted during a brief enquiry and should not be solely relied upon. However, in the English High Court judgment of *AB v Kent County Council* 2020, the court found that brief age assessments based on physical appearance and demeanour would only be permissible in obvious cases and that it would be incumbent on the local authority to ensure that any such decision takes into account the margin of error. *R(B) v Merton London Borough Council* 2003 states that margin of error can be as much as 5 years either way.

How to ensure a consistent margin of error is factored into decision making is for each local authority to consider. Taking the 5 year margin of error into consideration is likely to result in accommodating someone who is thought to be over 18 but under 23. In such circumstances, where doubts about the young person's age remain after they have been provided with accommodation and when the stated age is not accepted, a full age assessment is advised.

Information from other sources might also be considered prior to or during a brief enquiry. This might include other local authorities where the young person has resided, medical professionals, police and asylum accommodation staff. The Home Office Age Dispute Team should be contacted ahead of any enquiry and will provide information held on the individual which might, for example, include another age assessment or a picture on arrival. It should be noted that neither an initial decision based on physical and demeanour on arrival in the UK, nor a brief enquiry carried out by another local authority, should be solely relied upon and that the local authority is strongly advised to make their own assessment.

This guidance provides a template for brief enquiries in appendix 1.

### **“Minded to” discussion**

During a brief enquiry, there might be inconsistencies in answers given by the child or young person or observations leading to doubt over age. These concerns should be shared with the young person, offering them the opportunity to provide a response. This is referred to as a “minded to” discussion.

It should be recognised that this discussion might be distressing for the young person and social work representatives should offer the young person time to consider what is being put to them before answering. This might require a break or even scheduling a further discussion depending on a number of factors including emotional state of the child or young person. Responses might lead to further questions or discussions which help to reach a final decision.

### **After a brief enquiry or accepting stated age without full assessment**

After a brief enquiry which finds a young person to be clearly and obviously over the age of 18, it is best practice to ensure that the young person is given a copy of the assessment report and decision letter in writing with reasons. This should be done as soon as possible to ensure the young person is able to access their own legal advice.

There will be times when a young person has been provided with accommodation and a full age assessment is planned. During this period, it might be through observation and a period in a settled placement that social worker (s) believe that the young person is a child and that no age assessment is required.

Regardless of the decision, the Home Office must be informed in writing of the decision. Please see section 8 (sharing decision making) for more detail about how information should be shared with both the young person and with the Home Office.

At this stage, it might be useful to note that the Home Office should pay due deference to the local authority's position but there may be cases where the stated age has been accepted without a full assessment, and the Home Office disagree with the local authority's approach. The Home Office may request further information, or they might request a full age assessment by either the local authority or by NAAB.

Full age assessments should only be undertaken where absolutely necessary. The decision on whether it is necessary to undertake a full age assessment is a professional judgement, made by a qualified social worker. When making a decision about whether to carry out a full age assessment, social workers should be alert to unconscious bias (how our own experiences of family, society and culture etc. have shaped our views) and ensure that decision making is reasoned and robust. Preparing for and conducting a full age assessment is explored further in sections 5-7 of this guidance; this includes a section on bias.

### **Accommodation and hotels**

Section 4 of this guidance expands on the provision of accommodation but this section considers the implications of an increase in the number of children presenting from adult asylum accommodation and what to do when it is not possible to move children out of hotel accommodation immediately.

Adult asylum hotels are not suitable for accommodating unaccompanied children, and local authorities must take all necessary steps to move individuals placed in adult accommodation and subsequently presenting as a child to more suitable accommodation without undue delay. Where a young person has to temporarily remain in hotel accommodation, appropriate mitigations must be taken by the local authority; these might include but are not limited to ensuring:

- That the child is not sharing a room, unless cultural or emotional reasons mean this may be most appropriate option.
- Regular contact with the child, both in person and through remote communication. Daily contact is advised and the child should be seen in person once weekly as a minimum.
- Regular contact with accommodation provider staff
- That hotel staff and child have access to children's social work services and out of hours numbers.
- Access to healthcare services

- Regular reviews of the child's plan in line with looked after child review processes
- Referral to the Independent Child Trafficking Guardian (ICTG) Service

### **Duty to reassess**

In all age assessments – whether full or brief enquiries - if new information becomes available that could significantly change the outcome of the existing assessment, some form of further assessment should be undertaken. As an example, new information might include identity documentation or witness statements. Please see section 8 (managing new or revised information post assessment) for more detail about how to deal with new information which becomes available after a brief enquiry or full age assessment.

### **Scenarios**

This section concludes with 5 practice based scenarios. The following should be done for scenarios 1-4:

- A local authority representative should visit the child or young person without undue delay.
- A referral to the Independent Child Trafficking Service. See appendix 9 for more information.
- The local authority should liaise with the Home Office Age Dispute Team to determine what information is held and whether an age assessment has been undertaken.

#### **1. Presentation at police station in the middle of night**

Police contact out of hours social work at 2 am to notify that child A has presented in a police station. Child A does not have any formal documents and speaks little English but has been able to communicate that he is 17 and seeking shelter and support. In this scenario, the following actions and considerations are recommended:

- Every effort should be made to see child A in person but the time and location of the visit might make it inappropriate and impracticable for an initial assessment of need and a brief enquiry to be conducted immediately. In these circumstances, efforts should be made to speak to child A and to establish as much information from police as possible.
- In this situation, the stated age should be accepted until such time that a brief enquiry can be carried out. This means that the local authority has a duty to provide accommodation for the young person under section 25 of the 1995 Act.
- The priority must be ensuring that child A is safely accommodated pending any further assessment.
- A visit allows the local authority to consider the needs of child A when sourcing accommodation. In exceptional cases where child A cannot be visited, due consideration must be given to the appropriate placement of child A. Interim accommodation options pending a suitable care placement must be reserved for emergency situations where no alternative safe option is available, and utilised for the shortest period possible. Appropriate mitigations must be put in place in this scenario.

## **2. Referral of a child in an adult asylum accommodation**

You are notified that an individual placed by Home Office in an adult asylum hotel, or other another adult accommodation, has advised that they are a child. Child B has been in the hotel for a number of months and has come forward with documentation which shows them to be a child. The Home Office has recorded their age as 24. In this scenario, the following actions and considerations are recommended:

- The local authority should liaise with the Home Office to understand what information exists about child B. Where concerns about Child B's behaviour or welfare have been raised, a visit to child B should be prioritised over information gathering.
- Where the determination is that child B **could** be a child, they should be provided with accommodation subject to section 25 of the 1995 Act. Any doubts about whether child B is a child should be managed through a full age assessment, conducted after they have been provided with accommodation.
- In exceptional circumstances where it is not possible to move child B from the adult asylum accommodation immediately; child B should only remain there for the minimum time necessary with mitigations in place to ensure that it is the safest option. Until such point as they are moved to a regulated or more appropriate care placement, this must include daily contact and regular visits, additional management overview, and the child should be subject to the usual regular review of children in care.
- Where the child remains in the hotel at the time of the statutory 72 hour review, the review should focus on urgent plans for them to move to a more appropriate care placement.
- If the brief enquiry concludes that child B is clearly and obviously an adult, a minded to discussion must be considered. If the decision is unchanged by this discussion, the outcome must be given in writing with reasons and detail of right to appeal.

## **3. Spontaneous arrival who has resided in another local authority area**

Child C has presented in your local authority area and it is believed that they have previously resided in two other local authority areas. In this scenario, the following actions and considerations are recommended:

- Gather information to inform your assessment of need and care plan. This should include seeking information from the previous local authorities which may indicate that:
  - Child C is already accommodated by another local authority, in which case discussions should be held about how best to return the child to their care as the responsible authority. Consideration should always be given to any safeguarding concerns or;
  - Child C presented to the previous authority, was accommodated but a brief enquiry deemed them to be an adult. In this situation, your authority is responsible and must undertake an age assessment to determine if child C is or could be a child – in either of these cases, accommodation should be provided in the interim. Any doubt about

child C being a child should be managed through a full age assessment after they have been provided with accommodation.

- It is important to note that both the previous local authority/authorities and the Home Office should share any appropriate information with your authority but previous brief enquiries should not be solely relied upon and you are strongly advised to make your own assessment of whether child C could be a child.
- Where one or more previous brief enquiries have found child C to be an adult, the best course of action may be to accommodate and undertake a full age assessment.

#### **4. Identifying a child who may have been exploited**

Child D has arrived as an age disputed arrival through the NTS and colleagues have raised concerns about signs of exploitation.

Being aware of the indicators and risks that may suggest children and young people are being exploited is the initial step. The Human Trafficking: Reading the Signs factsheet provides good information on indicators and advice for professionals.

In this scenario, the following actions and considerations are recommended:

- Under section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015, if there are reasonable grounds to believe that a person may be a child who is, or may be, a victim of the offence of human trafficking, they ought to be presumed to be a child until further enquiries are made.
- Ensuring that the child is safely accommodated is a priority.
- Where concerns exist that the young person has been trafficked, this is a child protection matter and the child's safety will have priority over any age assessment.
- The young person's need for care and protection may therefore impact on the timescale of any subsequent age assessment.
- An inter-agency referral discussion (IRD) should be held, as outlined in Part 3 of the National Guidance for Child Protection in Scotland 2021 (updated 2023). A decision not to conduct an IRD must be recorded in writing.
- There may be information collected in the process of the IRD which may be relevant to determining the issue of age.
- A decision on whether to submit a referral to the National Referral Mechanism (NRM) will be made during the IRD if it has not already been completed. The Police and Social Work services will agree between them which agency will be responsible for submitting the referral.
- Social workers should remain alert to the impact of trafficking and any continuing threat on the young person's ability to participate in the assessment.

#### **5. How to support transition into adult asylum services after age assessment**

A brief enquiry determines that person E could be a child and they are moved into local authority accommodation pending a full age assessment. The subsequent full age assessment concludes that person E is an adult. In this scenario, the following actions and considerations are recommended:

- Notify the Home Office of outcome and refer to Home Office Routing and Validation Team, who will support with sourcing adult accommodation.
- Communicate any vulnerabilities or special needs, including trafficking indicators, to the Home Office safeguarding team and consider what safeguards or mitigations might support the young person such as a request for a single room.
- It is likely that the young person will be upset and distressed and so ensure support is available at the meeting and after. The guardian can continue providing support for up to 3 months after the outcome of an age assessment if the decision finds the young person is an adult and can ensure that the young person is linked into responsible adult services, community groups and to seek legal advice.
- A move to adult accommodation will often be arranged within 24 hours of notifying adult asylum services. The move to adult accommodation will be unsettling and stressful for the young person and might involve moving out of the local authority area where they are residing. To help prepare the young person for this move, the local authority might consider:
  - Providing a package of practical support for the young person such as toiletries and basic essentials.
  - Gathering views of the young person and where possible, advocating, on their behalf, that they are placed in the same local authority and if not, Scotland. This will ensure that they can continue to access legal services in Scotland which might be removed if they move elsewhere. Remaining in the area where they have support networks and access to services may provide additional protective factors, mitigating any risk of future exploitation or isolation.
  - Consider the individual circumstances of the young person and the timescales of the move.
  - Pre-empt the move, in so far as is possible, to help put plans in place to allow a smooth transition to adult services in order to minimise further trauma and disruption for the young person and to allow for alternative supports to be put in place. This will include managing their expectations.
  - Consider asking professionals, including but not limited to those in medical, mental health or education roles, to provide letters of support which may offer additional evidence to support the young person's health needs, vulnerabilities and any special support needs already be in place in the residing Local Authority area.

## 4. Additional Issues and Potential Vulnerabilities

This section is designed to help social workers think about the wider issues which may impact on the age assessment process and which they need to account for as well as the practical issues which need to be addressed before an age assessment takes place.

### Key questions for practice:

- Is it possible that the young person has been trafficked or experienced another form of abuse? If so, child protection procedures should be followed.
- How do I take a trauma informed approach to age assessment?
- Has appropriate accommodation been put in place for the young person for the duration of the assessment?
- Are there specific communication needs?
- Are there specific health needs eg. pregnancy?
- Does the young person have any other additional needs beyond being unaccompanied eg. learning disability and are there arrangements in place to take account of these during the assessment?
- Are there any other issues which may impact on the young person's ability to participate fully in the assessment and which need to be taken account of?
- What is the young person's immigration status?
- Are additional supports required?

### **Voice of a young person:**

"The most important thing is to know I am safe"

### Child protection

Workers should be mindful that there is research as early as 2001 which points to the involvement of traffickers in a significant minority of child asylum cases.<sup>2</sup> More recently, surveys have indicated the risks to women and children travelling across countries to seek asylum.<sup>3</sup> Child trafficking is child abuse and local Child Protection Committees should have in place policies and procedures to support workers. Additionally, it is incumbent upon workers to ensure practice is compliant with Article 22 of the UN Convention of the Rights of the Child states that a child who is seeking refugee status or who is considered a refugee should "receive appropriate protection".<sup>4</sup>

The Human Trafficking and Exploitation (Scotland) Act 2015 specifically requires relevant authorities to presume that a victim of human trafficking is a child in circumstances where the age of a victim is uncertain, but there are reasonable grounds to believe that the victim is a child under 18 years of age.

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<sup>2</sup> [Harvard University research paper: Seeking Asylum Alone: Treatment of Separated and Trafficked Children in Need of Refugee Protection.](#)

<sup>3</sup> [Unicef publication: A deadly journey for children: The Central Mediterranean Migration Route](#)

<sup>4</sup> [Link to: Convention on the Rights of the Child](#)

Where concerns exist that a young person has been trafficked (or experienced any other form of child abuse) this is a child protection matter and will have priority over the age assessment task. It should be noted however that there may be information collated in the process of a child protection investigation which may be relevant to determining the issue of age.

Trafficked young people are likely to have experienced other forms of abuse and exploitation. How victims will experience trafficking and exploitation will differ and may be impacted on by their gender. Figures indicate for example that more female than male victims will experience sexual exploitation.<sup>5</sup> Victims may have been forced to learn a story to tell the authorities and been given documents which are false or belong to someone else. They may have been told to state that they are older than they actually are. Traffickers may have gone to great lengths to control and secure the young person's silence about what has really happened to them, including threats to their own or their family's lives. Culture and religion can be used erroneously against young people to control them, such as being told that a curse will be placed on their family if they do not comply.

Social workers should remain alert to the impact of trafficking or any other child abuse and any continuing threat on the young person's ability to participate in an assessment. Additional needs including specific health issues/ pregnancy need to be taken into account. Depending on their experiences, in some instances the young person's need for care and protection may impact on the timescale of any subsequent age assessment.

Whilst all unaccompanied young people will require appropriate accommodation and support, this is of heightened concern for trafficked young people. In other parts of the UK there is a significant issue concerning trafficked young people going missing shortly after being accommodated. Practitioners should remain cognisant of the risk.

Where a young person is suspected of having been trafficked and they are subsequently assessed as being a child, this should be considered a child protection matter and a referral should be made to the National Referral Mechanism (NRM) available at: National Referral Mechanism. The Human Trafficking and Exploitation (Scotland) Act 2015 has in addition placed a duty (when enacted) on **relevant authorities** to notify the Chief Constable of Police Scotland where a child is suspected of having been trafficked.

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<sup>5</sup> [End of year \(2018\) National Referral Mechanism statistics.](#)

## **Referral to the Children’s Reporter**

In discharging their statutory duties, local authorities must give consideration as to whether a child might require to be made subject to a Compulsory Supervision Order (CSO) and therefore whether a referral to the Children’s Reporter is necessary.<sup>6</sup> Anyone can refer a child to the Children’s Reporter and a referral must be made when it is considered that a child is in need of protection, guidance, treatment or control and that a CSO might be necessary. The consideration of a referral to the Children’s Reporter should not be delayed as a result of an age assessment being planned or carried out.

## **Trauma**

Asylum seeking young people may have experienced significant trauma during their migration journey. Their experiences may include direct experience of beatings, rape or torture and they may have been witness to the beating, rape, torture and killing of others including family members. Some may have been ‘child soldiers’ or fleeing from attempts to enlist them as ‘child soldiers’. Their journeys to the UK may have been as a result of child trafficking and fraught with danger and uncertainty.<sup>7</sup>

Depending on their background and previous experiences, arrival in the UK may be an isolating experience. Language, food, culture, religious observance etc. may be very different and even objectionable to the young person. Previous experiences of authority and state officials means that border agency staff, police, social workers etc. could be mistrusted and even feared.

Research has indicated a correlation between post migration stresses and psychological distress including post-traumatic stress disorder (PTSD) and depression.<sup>8</sup> Evidence suggests that psychological problems such as these are more prevalent in unaccompanied asylum-seeking children than in accompanied children.<sup>9</sup> A 2012 study found that about one-third of asylum-seeking Afghan children who arrive in the UK without their parents are likely to experience symptoms associated with post-traumatic stress disorder.<sup>10</sup>

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<sup>6</sup> [Guidance on Referral to the Reporter – Information for Partners.](#)

<sup>7</sup> [National Institute for Health and Care Excellence: Looked after children and young people guidance.](#)

<sup>8</sup> [Bronstein, I. and Montgomery, P. \(2011\) ‘Psychological Distress in Refugee Children: A Systematic Review’ in Clinical Child and Family Psychology Review Volume 14, Number 1 \(2011\) pp. 44-56](#)

<sup>9</sup> [E. Sanchez-Cao, E., Kramer, T., and Hodes, M. \(2012\) ‘Psychological distress and mental health service contact of unaccompanied asylum-seeking children’ in Child: Care, Health and Development](#)

<sup>10</sup> [Bronstein, I., Montgomery, P., & Dobrowolski, S. \(2012\), ‘PTSD in Asylum-Seeking Male Adolescents From Afghanistan’, Journal of Traumatic Stress, 25\(5\), p551-557](#)

Being trauma informed means understanding the potential effects of trauma on the age assessment process:

- The process can be re-traumatising
- Trauma related difficulties may interfere with a young person's ability to answer questions
- Trauma related difficulties mean that assessors have to be very careful about how they understand and interpret a young person's response

Workers should be sensitive to the possibility of the presence of trauma and ensure that this is considered in the undertaking of any assessment and the subsequent analysis of responses. An approach which is sensitive to the young person's needs is likely to convey a sense that their views are being taken seriously and that they are being treated fairly which could help mitigate and manage feelings of powerlessness and trauma. Where there is concern about a young person's emotional state, assistance should be sought from an appropriate health professional. Guidance to support social workers to take a trauma informed approach to undertaking age assessments is provided in **Appendix 4**.

**Voice of a young person:**

"Take time to build trust...negative body language makes you feel uncomfortable"

### **Immigration status**

The young person's immigration status will have implications for their options for support post assessment, particularly where they are subsequently assessed to be an adult.

It will be important to understand the young person's immigration status and whether they have made an asylum application etc. Whilst the asylum process is completely separate from the assessment of age, the Home Office may use the age assessment outcome to inform their own decision making (see **Action Following Assessment** section on **Page 32** and **Appendix 8** for further information).

### **Looked After Children status**

The very fact of an age assessment being undertaken affirms the possibility of the person being a 'child'. Asylum seeking young people whose age is in dispute are generally provided with accommodation under Section 25 of the Children (Scotland) Act 1995 and, in consequence, afforded Looked After Children status. It is suggested that local authorities should be mindful of the potential complexity concerning both the short and long term implications that arise from looking after young people whose ages are in doubt. The age assessment and placement and support planning processes should work closely together to manage these.

### **Provision of accommodation**

It is important that as far as possible, planning takes place to ensure the most appropriate accommodation is in place before a full age assessment commences.

Recently arrived unaccompanied children and young people may require a high level

of support to ensure that they are safe and their needs appropriately provided for. As with any child or young person's placement, presenting information and any background information will need to be taken into account when deciding which type of placement would be most appropriate. Whilst some may benefit from being in a fostering or family type placement, others may benefit from shared or group accommodation with other young people with cultural similarities or experiences. Working with the young person themselves to develop an initial assessment will likely be the best way of ascertaining what best meets their needs.

It will be important that appropriate accommodation is in place for the young person for the duration of the assessment. Case law cautions against using adult services provision whilst carrying out an age assessment as the assessment is in itself an admission that the local authority is in some doubt:

“By agreeing to carry out an age assessment in the Claimant's case, the Defendant has accepted that the Claimant is someone who may be a child. “ (S, R (on the application of) v London Borough of Croydon & Anor[2017] EWHC 265 (Admin) (24 February 2017).

Where it is subsequently assessed that the person is not a child, workers should be mindful of the fact that the individual may still be in need and ensure that they are transferred to appropriate adult supports with due care.

### **Communication**

Communication across cultures and across languages can be challenging. Social workers will have the understanding and appreciation of the complexities of working in this field and should ensure that anti-discriminatory and anti-oppressive principles underline their practice. At all stages of the age assessment, social workers should be aware that cultural norms and individual experience will impact on a young person's communication, both verbal and non-verbal.

Children and young people may experience numerous issues that impact upon their ability to communicate. This includes learning disabilities, mental health problems, the impact of trauma, and an inability to speak, read or write English. This needs to be considered throughout the age assessment process. It is possible that a specialist opinion may in some cases be required with regard to matters concerning the young person's ability to provide information and to meaningfully respond to questions. This would be the case where there were reasons to suggest that a young person may have a learning impairment, be suffering from a condition that affects their memory or have a psychological or psychiatric condition that affects their ability to properly participate in the assessment. Whilst experienced social workers may recognise indicators that raise such a concern it will be for an appropriate professional to provide an expert opinion on the matter if that is thought necessary.

Social workers are however well versed in considering the different ways in which children and young people communicate and it is important in undertaking any assessment to consider what the range of interactions and observations of the person (either experienced directly or through feedback from other professionals) is communicating and how the worker's own non-verbal communication contributes to the understanding of the young person.

It is important to be aware that a young person may have been interviewed on a number of occasions by a number of different agencies, potentially for different purposes. This may include Home Office staff, police and solicitors. Children and young people are likely to find this whole process confusing and distressing, and may struggle to understand the differences between agencies. The impact of trauma as well as the numerous professionals that may be involved will likely affect their ability to take on board information given to them. Therefore, children and young people need to be given clear information about the reasons for conducting an age assessment, and it is important that this is reiterated on more than one occasion, and put into writing where possible.

Many of the children and young people arriving in the UK and claiming asylum come from countries in which the role of 'social worker' either may not exist or may be very different to that of the social work role in Scotland. Their experiences of authority figures may also be negative or abusive, and some may have fled their country of origin to avoid persecution by their national authority. In addition, trafficked children and young people may also have been given false information about what might happen if they come to the attention of the authority.

Key considerations for communication:

- Consider the basics: as with any other interview, greeting the young person with respect and consideration can help to mitigate some of the fears the young person is likely to have
- Identify the young person's communication needs
- Consider the young person's ability to give consent, which must be unambiguous and by a statement or by clear affirmative action, compliant with data protection and human rights legislation
- Arrange appropriate interpreting and translation services and wherever possible arrange for the interpreter to be physically present during interviews
- Identify and anticipate any other issues that may affect communication – see
- **Appendix 4** for guidance on taking a trauma informed approach to assessment
- Prepare an explanation of the purpose to be given to the young person verbally and in writing (with any necessary supplementary explanations)

## 5. Preparing to Assess

### Key questions for practice:

- Who should undertake an age assessment?
- Is a “responsible adult” required?
- Is the young person aware of their rights and do they have access to legal representation?
- Do I need an interpreter?
- What should the timescales be?
- Where should I undertake interviews?

### **Voice of a young person:**

“Be honest about why you are doing an age assessment. Explain the possible outcomes and consequences of the results. Go there with an open mind. Don’t make up your mind before the assessment starts”

### **Assessment: Getting It Right For Every Child**

A key purpose of establishing a young person’s age is to determine what type and level of support they may be entitled to. Determination of age is also important with regards to both safeguarding the young person and those with whom they are in contact. Factors that are relevant to determining age will also be relevant in a wider assessment of need. As such there is value in considering the age assessment in the wider context of an assessment of need and risk. This is consistent with the underlying values of Getting It Right For Every Child (GIRFEC), namely those relating to being child-focused, considering overall wellbeing and working in a joined-up manner.

The principles of GIRFEC are as applicable to young asylum seekers as they are to any other group of young people although it would be important to be mindful of cultural translation. However, the potential vulnerabilities of this group, coupled with their very particular additional needs and the consequential challenge for professional practice, make certain aspects of GIRFEC especially relevant:

1. Using the GIRFEC tools and materials in assessing need will also support the improvement of assessments of age. Previous judgements have indicated that it is hard to see how an asylum seeking child cannot be a ‘child in need’.
2. Adopting a ‘whole child’ approach across statutory and voluntary agencies will increase the quantity and quality of information and analysis that can be used in age assessments. The common set of terminology and indicators within GIRFEC allows for more effective communication across agencies.
3. Use of the My Word Triangle at every stage encourages the consideration of the young person in their widest context, and supports the need to gather information from other sources.

Whilst an age assessment is separate from a more comprehensive needs assessment, some of the information required to assess age will also contribute to

assessing need. Assessors should keep this in mind in order to minimise any duplication of processes. The primary task is that of assessing age but this can help inform assessments of need. The same knowledge, skills and understanding, which underpins good assessment practice with young people in need, is also required when working with young asylum seekers. This should however be supplemented with additional knowledge relating to:

- country and culture of origin
- ethnicity
- trafficking
- effects of trauma
- the experiences of refugees

### **Who should undertake an age assessment**

Local authorities will wish to ensure that the staff members allocated the task of conducting an age assessment have the appropriate knowledge and experience that equips them to carry out a competent and defensible assessment. It is best practice for age assessments to be carried out by **two workers** acting together. A conclusion based on the assessment and views of one individual would be unlikely to be considered robust nor survive scrutiny.

It is the responsibility of the local authority to ensure that the assessors have the relevant knowledge, experience and skills for the task. **At least one worker should be a qualified social worker registered with the Scottish Social Services Council** who should assume the lead role in planning the overall assessment. Both workers should have experience of working with children and young people and undertaking needs assessments. Best practice would suggest that at least one should have experience and training relating to age assessment / working with asylum seekers. Where this proves difficult, local authorities should consider what arrangements can be put in place to support workers such as linking with another local authority with more practice experience. Selection of staff should also take account of gender and other issues which may be important to the young person (and potentially of heightened concern for young people who have previously experienced violence and/or sexual exploitation).

As with any other social work led assessment, roles in planning and undertaking the age assessment, including interviews should be agreed with the relevant manager. The roles and tasks of the two assessors can be divided and there should be flexibility in matching task to individual (for example the importance of the gender of the interviewer may not be immediately apparent) and assessors will be required to exercise judgement when deciding how to agree responsibilities. It may be useful to record the agreed roles and tasks of the two assessors in an assessment plan.

Some issues relating to staff selection may require balancing a range of competing factors. Such weighting is likely to involve considering the importance of staff selection in producing a robust assessment alongside practical matters of staff availability and time.

Both assessors should be present during interviews with the young person and when analysing the information gathered. The lead worker has responsibility for ensuring

that the assessment is suitably planned. Both assessors have equal responsibility with regard to stating an opinion concerning the assessed age of the young person. Where there is disagreement between workers this should be noted in the assessment. In the case of a brief enquiry, a full assessment is advised. In the case of a full assessment where assessors disagree about the assessed age or experience a significant difficulty in conducting the assessment then they should draw this to the attention of the relevant manager and seek advice.

**Voice of a young person:**

“I was told at the start that I should have two social workers and someone independent. The social worker just showed up the second time without telling me they were coming.”

### **Responsible adult**

It should be noted that the term “appropriate adult” is a term referred to in the previous version of this guidance and in case law relating to age assessments; whilst there are similarities in the role, it differs to requirements of appropriate adults set out in the Criminal Justice (Scotland) Act 2016. To ensure clarity, this guidance will refer to appropriate adults for age assessments as responsible adults. It is best practice to offer a responsible adult to sit in with the young person during any interviews with assessors. If the young person chooses to have a responsible adult present, then a responsible adult should be present at all interviews with the young person. It is best practice to have the same responsible adult where possible but it is recognised that this is not always possible and waiting for the same responsible adult should not unreasonably delay any process.

This Guidance defines a responsible adult as a person, independent of the assessment process, that is able to:

- Observe the interview
- Ensure that the young person understands the key processes
- Ensure that the young person has an opportunity to respond to any information or opinions that may be incompatible with their own account
- If the interview is not being recorded, keep an independent record on behalf of the young person
- Monitor the young person’s wellbeing during the interviews

A person proposed to act as a responsible adult must be deemed acceptable to the local authority, the young person and their legal representative; please note that the young person may not have a legal representative at the point of a brief enquiry and therefore, a responsible adult only needs to be deemed acceptable by the young person and local authority at this stage to prevent undue delay. This role may be undertaken by an independent adult known to the child, their guardian, an advocate or other suitable individual. The child’s view should be central to that choice. There may be times when it is reasonable for someone from the local authority, but who is independent of the team making the assessment, to fulfil the role - but it will be crucial to seek agreement of the young person and to demonstrate fairness of

process.

The local authority should consider whether it would be good practice to provide an outline description of the role and responsibilities of the responsible adult to the young person and their legal representative. There may be benefit in preparing written material that can be given to the young person and explained through an interpreter if required. Assessors should ensure there is proper discussion about the role of the responsible adult.

Where a responsible adult has agreed to take notes for the young person during the meeting, there should be an agreement that these are shared with the assessors for the purposes of contributing to the overall assessment.

If a young person declines to have a responsible adult present, then this and their stated reasons for their decision should be recorded.

### **Providing information to the young person and their rights and access to legal representation**

Once a decision has been made that the young person is a child or that an age assessment requires to be undertaken, it is important to ensure that the young person is given information about their situation.

The young person should be made aware of their rights and in particular their right to access legal representation at the outset of the age assessment process. Good practice would be that this is considered in any verbal or written information given to the young person.

In terms of communicating with children and child friendly materials, the Guardianship Service (**see Appendix 9**) may be a source of support. ECPAT have also produced child friendly information materials through their ReACT project (**see Appendix 10**). Further consideration of what the young person should be told specifically about the age assessment process can be found in the **Planning the Assessment** (section 6.)

### **Interpreters**

Age dispute cases will regularly involve young people who do not speak English or, where English is a second language, it is poorly understood and spoken. The quality of the assessment will therefore be significantly affected by how well interpretation and translation services are used. The Guidance assumes that local authorities will make proper advance arrangements concerning interpreters (including requirements relating to their suitability and selection) and support staff in their use.

It is possible that there will be exceptional circumstances where it proves very difficult to identify an interpreter fluent in the young person's language and in these cases it may be necessary to extend the assessment period so that all reasonable steps to obtain appropriate support can be taken.

Assessors should explicitly check whether an interpreter is required and that the young person understands that an interpreter can be provided. Both the offer and the response should be recorded.

It is important to be clear about the role of the interpreter. They are there to provide a translation service between the assessors and the young person. They should not provide any views or opinions regarding the information being provided by the young person. It is important to recognise the potential for an interpreter to be affected by interpreting for a young person who may have experienced highly traumatic events and which can impact on how they are translating.

Assessors should ensure that the interpreter has a proper understanding of the requirement for confidentiality and objectivity.

**Voice of a young person:**

“If you really understand an interpreter, that makes a big difference”

### **Timescales**

Assessments should include **a minimum of two interviews**, staged several days apart. Interviews should be planned to take account of the young person’s needs and capabilities at these times. Consideration needs to be given to any religious or cultural issues which could impact on the timing of interviews eg. if the young person is fasting.

The assessment should aim to be conducted over a period of **28 days** to allow the young person time to become accustomed to their surroundings and to develop some trust and sense of security. There may also be circumstances that require a longer assessment period. Reasons for this might include the ill health of a young person, trafficking enquiries, unexpected or unusually difficult communication problems or the possible existence of learning difficulties. Assessors should record the process and duration of interviews. Breaks will need to be factored into any interview.

The timescales involved in age assessments, coupled with very limited resources, present significant challenges. However for many local authorities it may be a relatively infrequent requirement and given the significance of age assessment for the young person at the centre it is important enough to justify high priority.

**Voice of a young person:**

“Give regular breaks (in an interview) and not just 5 minutes. Social worker should say, take a break and when you feel ready come back in. I got told that I only had a 5 minute break and this was not helpful.”

### **Considering a venue**

Whilst workers will likely be restricted in their choice of venue for undertaking interviews, consideration should be given to the requirements of the location. The venue should be reasonably comfortable, with enough space and seating and access to toilet and drinks facilities. As with any interview which deals with personal information, the space should afford an appropriate level of privacy. Consideration should also be given to what arrangements could be made in the event that the young person needs to take a break during any interview.

A police station would not usually be considered an appropriate venue for undertaking an age assessment. Where it is accepted that there is an age dispute, arrangements should be made for the young person to be provided with appropriate accommodation whilst an age assessment is undertaken.

## **6. Planning the Assessment**

### **Key questions for practice:**

- Does the young person know the purpose of the assessment?
- How to manage new information?
- Consideration of the young person's vulnerability?
- What if the young person chooses not to participate?
- How do I undertake interviews?

### **Purpose of the assessment and the role of the social workers**

The young person, any legal representative on behalf of the young person and the involved 'responsible adult' should be made aware of the purpose of the assessment at the outset. Workers should record whether and how the young person has indicated that they have understood this. It would be useful to prepare a statement of purpose to be given to the young person verbally and in writing (with any necessary supplementary explanations). The aim is to give the young person as much information as they need to support them to participate as fully in the process as possible.

How the process is explained to the young person will be determined by their particular needs. As a basic guide, workers should cover:

- The role of each worker (and anyone else who is anticipated to be in the room during interviews eg. interpreter)
- What will happen in the age assessment process (eg. interviews, speaking to others, gathering information) and how long you anticipate the process to take
- That the process is to determine whether their needs should be met within children's or adult support services
- That the process is separate from the decision making about any claim for asylum, but the outcome could be considered by the Home Office in making their decision
- That they will be asked to give consent to participate in the process (in compliance with relevant human rights and data protection legislation) and that they can change their mind at any time
- They can seek legal advice
- If they wish to have a responsible adult present during interviews they can
- That they can ask to take a break, get a drink of water etc. (particularly if they feel upset) or ask for clarification if they don't understand anything at any time during interviews
- What will happen once the assessment is complete (including that decision making will be explained giving them an opportunity to comment)
- That they can appeal with the help of a solicitor if they don't agree with the outcome

## **Managing new or revised information during the course of the assessment**

In planning any assessment, arrangements for carrying out age assessments should include how to manage new information that comes to light after the assessment interviews have been concluded and how this would be reviewed. It should be possible to take new information into account and for opinions about assessed age to be revised. It is important to give the young person an opportunity to discuss provisional findings prior to finalising any assessment to give them the opportunity to clarify any information.

## **Vulnerability**

The potential vulnerability of young asylum seekers (due to communication issues, possible trauma, absence of familial supports, loss of identity and the general effects of dislocation) means that they depend particularly upon having a fair and effective assessment process. It should be ensured that there are safeguards and independent supports built into each assessment to make certain that young people's rights are understood and protected. It should be noted that a high level of vulnerability in a young person does not necessarily equate to them being a child but it does mean particular care should be taken so as to ensure that a fair and defensible assessment is conducted which recognises the impact on the young person's identity and circumstances. It is also important to take this approach given that until the assessment is complete, the possibility remains that the young person is a child and action needs to be in line with Article 8 of the UN Convention of the Rights of the Child.<sup>11</sup> A trauma informed approach to assessment is recommended – guidance on this is provided in **Appendix 4**.

## **The young person decides not to participate in the assessment**

If a young person decides not to participate in the age assessment process then the assessors will be expected to continue to undertake the assessment, albeit noting the constraints and limitations that result. The young person should be supported to understand they will not be forced to participate in any interview and consent (which must be in accordance with data protection legislation in force at the time) would still be sought from them to seek information from other agencies as necessary. They should be made aware that information will still be gathered from existing social work records and from observations assessors/those directly caring for the young person have been able to make. Attempts should be made to ensure the young person is given the opportunity to comment on the contents and outcome of any such assessment and any feedback recorded.

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<sup>11</sup> [Convention on the Rights of the Child](#)

## Planning interviews

Similar to principles and techniques used in undertaking other interviews with children and young people, workers should seek to establish a rapport at the outset of the interview process and use open rather than closed questions to support the young person to contribute as fully as possible to the assessment.

Assessors may wish to prepare a set of 'core' questions in advance based upon the individual case. Core questions might include tailored 'open' questions that encourage fuller answers such as descriptions or narratives. The aim is to build as full a picture as possible about the young person's background and experiences which can support an assessment of their age.

Suggested areas of enquiry are outlined in the suggested assessment headings to be considered in any report appended to this Guidance (**Appendix 3**). A key question is to specifically ask the young person what their age and date of birth is to support a fuller exploration of the contextual information which supports their view, eg. rites of passage, comments from their parents about their season of birth etc.

Interviews should be recorded and it may be best to decide in advance how this will be undertaken. Detailed written notes should be undertaken to ensure that the significant points covered are recorded (unless the interview is being recorded by another means). It is important to remember that if an age assessment is disputed in court, all original records may be required to be provided (even where notes have been subsequently typed).

### **Voice of a young person:**

"Sometimes it is difficult to know if everything is understood between me, the interpreter and the social worker, so it is good to write things down so they can be checked out"

## **7. Assessment: Gathering Information and Analysis**

### **Key questions for practice:**

- Will documentation be available/reliable?
- What information should be gathered?
- Getting information from other professionals in writing?
- The provision and use of medical information?
- What needs to be recorded?
- The potential for bias?
- What needs to be considered in interpreting the information?
- What support and review arrangements are in place to ensure the assessment is robust and will withstand scrutiny?

### **Documentation**

Many of the young people arriving in the UK and claiming asylum come from countries with very different practices regarding official documentation and the recording of age and identity and may not have any documentation. In some cultures, age is considered to be relatively unimportant and in others, conflicts or persecution mean that it is irrelevant to the struggles of everyday life.

Documentation can be stolen or lost on the journey to this country and in order to survive it may be necessary to deceive or mislead through using false documentation; it should be noted that young people, for example those who have been trafficked, may have no or little control over this. Sources of information therefore will be limited, and, in the absence of reliable and relevant documentation, there will be greater reliance upon information directly obtained from the young person themselves. This emphasises the point noted previously concerning the importance of communication. Assessments will be dependent upon accurate interpretation which pick up the nuance and detail of what is said as well as the basic 'factual' content.

Whilst many unaccompanied young people will present without any documentation, some may have this or are subsequently able to access this. Social workers should consider whether there is any need for expert authentication of any documents. Consent of the young person should be sought when proposing to share their documentation.

It is important to consider that young people may have been provided with false documentation as part of being smuggled or trafficked. This could include having an incorrect date of birth, which makes them appear to be older in an attempt to avoid detection, as an unaccompanied child, during their journey to the UK.

The Home Office National Document Fraud Unit (NDFU) can assist with authentication of some documents; referrals to the NDFU should be made through the NAAB. The young person should be made aware that the purpose of this is to verify the authenticity of their documents. It is not uncommon that the NDFU will not

be able to give a conclusive result on whether a document is genuine or not and therefore, it is good to consider the documentation as a source of information, but caution must be taken when attaching any weight to it in the age assessment decision.

There are individual professionals with expertise in document authentication, and in exceptional circumstances and when deemed necessary, it may be appropriate to commission their services before conducting any age assessment interviews. Some legal representatives may be able to help with access to expert authentication via legal aid.

Due to the challenges young people will often face in obtaining and retaining official documentation, they often provide photographs of documentation, rather than the documentation itself. It can be extremely difficult to come to a definitive conclusion on photographs of documents, and so again, although it is important to consider documentation as a source of information, caution must be taken when considering how much weight is attached to it.

## **Gathering information**

As much information as possible should be gathered prior to interviews taking place to make best use of the interview time and not subject the young person to questioning for longer than necessary. Assessors should have access to and use relevant information concerning the young person's country and culture of origin, religious background and ethnicity to help them in deciding what information to seek and in its analysis. As previously noted, this guidance reaffirms the ecological approach underpinning the GIRFEC framework.

Unless in a specialist team (or they have a personal connection), most social workers are unlikely to have detailed knowledge of the country of origin of the young person being assessed. This knowledge can help support social workers in both understanding and interpreting information as well as assist in framing questions during the interview process. Sources such as the Home Office (**Appendix 8**), Scottish Guardianship Service (**Appendix 9**), Scottish Refugee Council and Amnesty International can assist but it is important to remember that there will be limitations both in terms of the reliability and the currency of any information. A list of possible sources can be found at **Appendix 10**.

As with any other social work led assessment, impressions should not be formed solely on physical appearance. Beyond understanding the cultural, societal and religious experiences of the young person, a pen picture of the young person is required alongside observations regarding their interactions, responses to care etc to contextualise information and contribute to an analysis of the young person's particular situation and what that might mean for assessing their age. Use of a Genogram and Ecomap can help both gather information and support organisation and analysis of the same. Templates can be found in the National Risk Framework.<sup>12</sup>

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<sup>12</sup> [National Risk Framework to Support Assessment of Children and Young People](#)

## Information from the young person

### **Voice of a young person:**

"It would help if the interviewer says to ask if I want to change the way something is asked, especially when you come from a country where you cannot risk to say anything."

The young person themselves is likely to be the primary source of information. Social workers need to exercise caution in how they verify information provided to them. Where any state responsibility or systemic persecution/ lack of protection is not fully understood, contacting an embassy or an organisation in the young person's country of origin (or even in the UK) could put the young person at serious risk. However, it might be possible to confirm information from the young person in ways which would not put them at risk such as internet searches regarding school information etc.

During the course of the interviews, the young person should be supported to provide their own narrative of their life and given the opportunity to comment on information gathered from themselves and other sources. Where gaps or inconsistencies are identified in the course of the interviews or any other part of the information gathering process, this should be discussed with the young person and their views recorded. We know from experience young persons' accounts will change as they develop trust in those supporting them. It is important that no assumptions are made as to the reasons for any inconsistencies etc. and all questioning should be on an inquisitorial rather than adversarial basis.

There may be special issues in cases where siblings or other relatives are being age assessed (both in terms of their assessment and the nature of their support). Each young person should be assessed in their own right but there may be benefit in considering how information about one relates to another. The potential benefits and problems that can arise in such situations however will require specific and extra consideration. As part of any age assessment assessors should ask where and when the young person last had contact with family members and whether there are any family members living in the United Kingdom.

### **Voice of a young person:**

"Make the young person feel relaxed and make sure that they know it's not like a police interview. Reassure them. Explain what (you) are going to do. If you are going to ask the young person about (their) 'story' then they need to give the young person plenty of time to explain as it is difficult to talk"

## Information from other sources

The assessment should aim to be holistic and multi-agency in order to gather information from all relevant sources. It should utilise the information and views of agencies that have a relevant involvement with the young person or are able to provide a specialist opinion. This might include health professionals, educational psychologists, teachers, care and support staff, foster carers or others who have some relevant knowledge. It is particularly helpful to include information that is drawn

from contacts in different types of setting. The assessors should consider who else might be sources of information to contribute to the assessment when they are planning and reviewing the progress of the assessment. The young person themselves may be able to assist in identifying sources.

Medical information may play an important part in contributing to age assessments but physiological assessments have wide margins of error and so there are caveats around what weight medical evidence should have in an overall assessment. Coupled with this there are ethical considerations which will have a bearing upon how and when medical experts, such as paediatricians, may become involved. A medical assessment is only likely to be available where this was required to meet a young person's health needs. Medical information, where available, is best used by being taken into account as one part of a 'Merton' (**Appendix 6**) compliant social work age assessment. It is important to note that a medical report is different from general information / opinion which may be provided by a health professional as a contribution to an age assessment. Where a medical practitioner has had involvement with the young person and may be able to contribute, irrespective of whether any relevant medical assessment has been undertaken, it may be reasonable to seek their views regarding their observations of the young person relevant to the age assessment task.

Specialist information and opinion may play a part in an assessment. Social workers should aim to include this where possible and local authorities may wish to consider developing suitable arrangements to support this. In deciding what specialist involvement might be necessary there is value in considering a tiered intervention approach based upon the presenting situation and statements from the young person. Such interventions should be reasonable and proportionate and based upon an indicated need. It is understood that accessing specialist services may extend the timescales of the assessment. Decisions concerning this should aim to strike a balance between ensuring that the evidence underpinning an age assessment is 'good enough' while avoiding undue delay.

Where assessors wish to seek information from other agencies as part of the assessment they should ascertain if those agencies require the young person's specific consent for this and if so request it. It should be noted that highlighting that an age assessment is taking place is likely to be sharing confidential information and it is therefore likely that consent will be required. At all times, action must be compliant with the relevant human rights and data protection legislation. Where possible, information from other sources should be gathered prior to undertaking interviews with the young person to inform the interview process and minimise the number of interviews. Information requested from other professionals should be provided in **written format** to the assessors, detailing their involvement with the child and any interaction and observations of the child relevant to the assessment.

Where any conclusion is being drawn as to the age of the young person, this should detail the reasons for the opinion and any evidence which supports the conclusion. It should be noted that opinions can change over time and any changes in views should be communicated to the assessors in writing. Assessors should also seek to have access to any relevant records that may assist them as well as noting the opinions that other professionals may have drawn from these records. Assessors will

need to consider and weight the information provided by other sources and how that contributes to the overall assessment. A sample request has been attached at **Appendix 2** to help social workers in drafting requests for information.

## **Recording**

There should be explicit agreement between the assessors and the relevant manager about managing recording arrangements for both the gathering of information and interviews. Records do not have to be verbatim but should be sufficiently full to include all significant points. In particular, there should be detailed notes taken of the interviews. Issues concerning accuracy or veracity regarding interview notes should be raised as close to the time as possible so that clarification can be sought and noted by the assessing workers and the responsible adult.

Written contributions from other professionals and assessors' notes of interviews constitute part of the young person's case file and access to the file is governed by legislation and local authority policies relating to the management of information. Arrangements should be in place for the processing of sensitive personal data and understood by the young person. All action must be compliant with the relevant human rights and data protection legislation, remembering that where consent has been given this can subsequently be withdrawn.

Whilst there is no immediate requirement for notes to be shared it should be understood that a request for information under data protection legislation may be made by the young person (and their legal representative if applicable), also that records may be examined as part of any later legal process.

## **Supervision, oversight and addressing the potential for "bias"**

'Bias' is an issue to be aware of in all assessments and this is particularly true in relation to age assessments. Conscious and unconscious attitudes concerning asylum and race, organisational cultures and wider societal attitudes towards immigrants and asylum seekers can all influence how information is collated and understood. As previously noted, there may sometimes be inconsistencies in a person's account and workers must test their interpretations to understand their significance and ensure that a culture of disbelief does not develop. Acknowledging the potential for bias may not prevent it but it at least allows it to be considered. The use of supervision and the adoption of a 'questioning of assumptions' approach may assist. Local authorities should ensure that internal oversight arrangements allow supervisors the opportunity to review and confirm the assessment before it is signed off by the agency.

**Voice of a young person:**

“Reading into body language too much is not helpful. I was nervous in my interview and was scratching my hand and not giving any eye contact. Social worker said that this made me look older. This had nothing to do with my age”

**Analysis and robustness of assessment**

Assessors should be confident about making judgements within their own sphere of expertise but should also understand where a different professional opinion would be helpful. Similarly where information is provided by other parties the assessors should be aware of the basis of that information, including how experienced or qualified that contributor might be, as this would affect the weight accorded to it.

It is unlikely that any one piece of information will point to a conclusive assessment of age. As with any other social work led assessment, assessors will need to consider each piece of information on its own, the detail, evidence and source in order to decide what weight is attributed to it in forming the overall assessment. Age assessments are unlikely to be able to be concluded with absolute certainty as there is currently no definitive test. In reaching any conclusion, consideration should be given to case law, ensuring that any decision has the young person’s best interest as a primary consideration,<sup>13</sup> and where there is reasonable grounds to believe that the young person has been trafficked, ensuring that decision making is compliant with Section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015.

**Illustrative example:**

S is located at a city train station by British Transport Police. He has no passport or any other document which could confirm his age. He states he is 15 years old and social work services are contacted. Two workers visit and in consultation with their manager agree to accommodate S and undertake an age assessment. Having subsequently taken the assessment as far as they reasonably can, the social workers conclude that they are unable to make a judgement beyond identifying that there is reasonable information to conclude that S is between the ages of 17 and 18. On this basis, in consultation with their line manager, they decide that S should continue to be supported as a child because there remains reasonable grounds to believe that he is a child. S is subsequently given a date of birth which would identify him as being age 17.

It is important that assessors are able to evidence and account for their conclusions. This should involve identifying relevant information, indicating how it is interpreted, what weight is given to it and what conclusion is drawn. Whilst it is difficult to conclude a definitive age, assessors should be mindful of the importance of having a definitive age and date of birth, both in terms of the young person’s ability to access

<sup>13</sup> [Convention on the Rights of the Child](#)

services and their identity. Whilst the fundamental task of the age assessment is to determine whether the individual is an adult or a child based on the information available, it is important that any conclusions about a young person's date of birth are as exact as they can be and made in consultation with them.

Given the evolving body of social work practice, case law in this field and the potentially adversarial nature of the subject it is quite possible that at some point the assessment process used and its conclusions will come under legal challenge and scrutiny. In addition to any managerial review and internal oversight arrangements, local authorities may wish to consider whether there is a role for their legal services.

### **Support for workers/debrief**

Managers should be mindful of the possibility of the presence of trauma for the young person and any subsequent impact on the workers undertaking the assessment. It will be important to consider any debriefing and support for workers arrangements as necessary.

## 8. Action Following Assessment

### Key questions for practice:

- Communicating the assessment outcome to the young person
- Sharing information with others, including the Home Office UKVI
- What happens after the assessment?
- What if new information comes to light?

### Sharing decision making

The assessment findings should be discussed with the young person to give them an opportunity to comment prior to concluding the assessment report. Seeking the views of the young person is enshrined in Article 12 of the UN Convention of the Rights of the Child.<sup>14</sup>

Once the assessment is concluded, the assessment report produced by the assessors should be provided to the young person and their legal representative. The response of the young person and their representative to the report should be recorded, along with any agreed amendments to the report. As previously noted, a sample headings format for this report is appended to this guidance (**Appendix 3**).

Unless instructed by the court, a young person must give consent (which must be in accordance with the data protection legislation in force at the time) prior to workers sharing their information with any other agency or person. Consent must be unambiguous and by a statement or by clear affirmative action and it should be remembered that consent can be withdrawn.

Where the Home Office UKVI has disputed the young person's age they will require information regarding the outcome of the age assessment and the reasons for this. It is also likely that they would require information to evidence the robustness of the assessment process. The Home Office have advised that as a minimum, where age assessment information is requested, they require:

- The assessment conclusion
- The reasons on which the conclusion is based
- Evidence that the assessment complies with the general principles set out in the Merton judgment and further case law
- Confirmation from the local authority that the age assessment has been carried out in compliance with the guidelines in the Merton case and further case law
- Where information is to be disclosed in these circumstances, it may be that, in accordance with data protection legislation, consent of the individual is not required.

However, in other circumstances, consent may be needed in order to comply with data protection legislation. Please note that, in all circumstances, sharing of information must be fully compliant with data protection and other relevant legislation.

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<sup>14</sup> [Convention on the Rights of the Child](#)

The outcome of an assessment of age will have important effects upon how an asylum claim will be managed. The assessment of age is a separate process from that of determining an asylum claim and so safeguards need to be in place to ensure that the young person's rights are not prejudiced by the sharing of the age assessment report between key agencies. When sharing any information, action must be compliant with the relevant human rights and data protection legislation must be adhered to. It will be important to seek advice from the relevant data protection manager/ legal service.

## **Next steps**

If the young person has been assessed as being under the age of 18, then their care and support should continue to be provided by the local authority children's services. Where a person has been assessed as an adult, workers will need to ensure that they are transferred with due care to appropriate adult services, including the relevant immigration service.

### **Voice of a young person:**

"Think about how they might react to the news. I remember not being able to listen to the reasons for decisions, and I switched off once I learned that my age was not believed. It would have been better for me to meet another time when I was not upset and could listen and understand the decision"

## **Managing new or revised information post assessment**

It is possible that following an assessment, new information not previously considered challenges the conclusions of the assessment. In these circumstances, where it is believed that the new information could significantly change the outcome of the existing assessment, a further assessment should be undertaken.

However, it may not be appropriate to subject the young person to a further full assessment. In these circumstances, workers should discuss and agree with the relevant manager the degree to which the existing assessment needs to be revised in light of the new information. Given the potential implications for the young person, the decision making and rationale should be recorded and shared with the young person and their representative.

There may also be situations in which new information does not substantively change the conclusion of the age assessment, but which it is important to formally record and amend the assessment. An example would be where a young person was assessed as being under the age of 16 years and subsequent information comes to light which provides an accurate date of birth. Given the importance of this information in relation to identity<sup>15</sup> and age appropriate access to services etc. it

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<sup>15</sup> [Convention on the Rights of the Child | OHCHR](#)

would be important to amend the assessment and communicate this to the relevant statutory services bodies (ensuring that any action is in accordance with relevant data protection and human rights legislation).

## **Appendix 1: Sample Initial Presentation Decision Recording**

Please note: in recording any information for the purposes of initial decision making, action must be compliant with the UK General Data Protection Regulation and relevant human rights and data protection legislation

### **Personal details**

- Name
- Stated date of birth and date of birth assigned by Home Office
- Home Office and Port reference
- Home country and city
- Gender
- First language
- Referral source

### **Enquiry details**

- Date of brief enquiry
- Venue
- Lead social worker
- Second worker

### **Interpreter details**

- Did they attend in person?
- Name
- Language
- Reason(s) if no interpreter present

### **Responsible adult details**

- Did they attend in person?
- Name
- Organisation
- Reason(s) if no responsible adult present

### **Introductions and consents**

- Explain purpose of assessment, outcomes and format
- Ask and record whether person feels well enough to be interviewed.
- Explain roles of those present
- Request consents such as to take photo or to share report

### **Young person's narrative**

- How the young person knows their DOB.
- Migration journey and how it was arranged
- Life events (e.g attending or finishing school)
- Family links already in the UK

### **Observations**

- Observations of appearance and demeanour should be noted but should not be solely relied upon

- Consider trafficking indicators, welfare concerns, disabilities, learning difficulties.
- Could child or young person be pregnant?

#### **Other sources of information**

- Does the young person have documentation?
- Have they come into contact with other professionals who can provide information? Police, medical professionals, key workers, other local authorities?

#### **Additional comments from young person**

- Offer young person opportunity to ask questions or share information they feel relevant.

#### **Minded to discussion**

- Questions for clarification
- Any doubts put to young person
- Responses

#### **Conclusion**

- Document rationale
- Consider margin of error

#### **Post enquiry:**

- Outcome of brief enquiry shared with YP
- Outcome shared with Home Office

## **Appendix 2: Sample Request for Information**

Please note: in adopting this template or similar wording, discussion should take place with the relevant data protection manager/ legal services. Action relating to information sharing must be compliant with the relevant data protection and human rights legislation. Where consent is required, this should be clearly acknowledged and addressed.

Dear

I am undertaking an age assessment in respect of X (insert young person's name) and have been made aware that you/ your service currently has or has had previous contact with X. Age assessments are important in determining how best to support a young person.

As part of this assessment and to help me form as complete a picture as possible of X, I am requesting that you provide me with written information detailing your involvement with X and any interaction and observations of him/ her relevant to the age assessment. It would be helpful in your response to include:

- Brief details of your role and your years of experience including any relevant qualifications you hold;
- The nature and frequency of your contact with X;
- Your observations as to how X behaves and interacts with others; and
- Any contextual/ background information shared by X and any records relevant to the age assessment.

Should you feel that you are in a position to draw any conclusions as to the age of X, please detail the reasons for your opinion and any evidence which supports your conclusion.

Your information will be used as part of our assessment and decision-making process in conjunction with other information, reports and interviews with X. The information you provide will not be used in isolation but will be contribute to the wider consideration of information in reaching a robust assessment of X's age.

It is important that X is aware that you will be providing information about them in relation to their age assessment as this information may be contained or reflected in the final age assessment report.

Should you have any queries please do not hesitate to contact me. Many thanks for your assistance.

## **Appendix 3: Sample Age Assessment Report Headings**

Please note: in compiling information for the assessment, action must be compliant with the relevant data protection and human rights legislation

**Young person's name:**

**Reported age:**

**Current address:**

**Type of accommodation:**

**Former address in country of origin:**

**Current legal status:**

**Dates of expected legal or procedural hearings/events: Assessment initiated by:**

- Name
- Agency
- Date
- Reason

**Details of workers undertaking assessment:**

**Other contributors:**

- Name Agency Position Qualifications (if relevant)

**Process of events leading to assessment request:**

**Consent from the young person to engage in the process and/ or contact other agencies:**

**Documentation:**

- Official documentation relating to identity, nationality and age (comment upon credibility if appropriate); personal documentation relating to family and social identity (eg. letters, photographs)
- If absent – why? It may be relevant to refer to country information and/or (if lost or stolen) to note the young person's account of how this happened

**Significant personal possessions:**

- Articles, including clothing or jewellery that might signify an age or social status or mark of a rite of passage

**Current placement:**

**Immediate issues:**

**Young person's understanding of the present situation: Basis of assessment:**

- Summary of assessment process
- Sources of information

**Young person's communication needs:**

**Communication methods used:**

**Pen picture:**

- Brief physical description/visual impression but also noting personality, emotional state, concerns and likes and dislikes; note of any particular immediate concerns concerning self and/or others; general health and wellbeing

**Identity :**

- Talents; successes; external or internal attribution; personality; values/conscience; ethnicity; cultural identity; sexual identity; religion (Issues arising from these)

**Summary of young person's description of journey:**

- Young person's narrative, include reason for leaving, timescales etc

**Personal chronology:**

- Key events/markers and memories; Young person's grasp of the concept of time and how expressed

**Note of any child protection, vulnerability or trafficking concerns:**

- Any presenting information that suggests the young person has particular vulnerabilities, is at risk or may have been trafficked; if appropriate comment upon how this might relate to the age assessment (eg. whether this could affect the young person's attitudes, behaviour or presentation)

**Health:**

- History of/ current significant health matters eg. illnesses, accidents, treatments, operations; FGM and circumcision; significant stress and nutritional factors;
- menarche and time since onset

### **Physical development and appearance:**

- Facial characteristics: Hair; skin lines, tone, folds and weathering; Prominence of 'Adam's apple' in males; facial hair/shaving
- Growth: Height, build
- Well or poorly nourished appearance
- Voice: Tone; pitch; expression
- Identifying marks: Marks or scarring and accounts for these; tattoos
- Sexual development: Only if available: the assessors **will not** undertake or request any examination themselves they may be able to source information from elsewhere
- Optical; aural; dental; sexual; general (consider circumcision/mutilation issues if appropriate) NB. social workers are not expected to offer an opinion outwith their professional competence but may highlight a presenting concern and, with the young person's consent, refer him/her to a health professional

### **Social and emotional development and appearance:**

- Trauma; depression; self-harm; eating; sleeping; emotional control; flashbacks; nightmares; dissociation
- Demeanour and interaction: Attitude towards assessing social worker and other authority figures; eye contact;
- Response to choice, if there has been a choice, of clothing and how worn; mannerisms; body posture/language
- Interaction with others: e.g. adults, young people and children; formal and informal situations; with people in or perceived to be in authority; males and females; types of relationships observed and described; ability to make friends; social roles; language skills (including vocabulary and congruence with other information presented)
- Confidence and identity: Sense of self and knowing their own mind; also consider possible factors such as: deference; assertiveness; social skills; maturity and pseudo-maturity; watchfulness/hyper vigilance; naivety
- Gender, sexual relationships and identity: Gender role; sexual orientation and its cultural significance; marital/relationship
- status (note any significant issues about marriage practices e.g. forced); cultural expectations; circumcision
- Preferred activities: Related to age and stage
- Expressed feelings: About self, key others; current and past situations; vocabulary; conceptual content; introversion/extroversion
- Type and level of expression: Withheld, vocalised, acted out; level of emotional control
- Separation and loss issues: Grief; cultural dislocation; thought patterns; physical signs; behavioural signs
- Leisure: Preferences; opportunities; who was involved
- Peers: Who; ages; relationships; contexts; how would they describe the young person (please note it is anticipated that this information would be provided by the young person and/ or their care provider – peers should not be approached)
- Autonomy: Degree of independence and self-direction; personal authority and decision making; ability to manage money; self-care; domestic skills; work with agencies/others; recognise danger; stay safe

- Key events, rituals and rights of passage: Possibly linked to chronological age, sexual development, changes within family structure
- Hopes for the future: Ambitions; sense of personal potential; priorities; ability to think into the future; abstract thought
- Identity: Likes/dislikes; achievements; pride/regrets

### **Family History:**

- Role(s) in family: Provider; carer, level of authority/responsibility; have they lived alone/outwith the family
- Household composition: Who lives/lived there; family or other; note use of mother, father, aunt, uncle may not denote relatives by blood or marriage
- A typical day at home: What would it look like? Has this changed over time?
- Family history narrative and meaning of key events: either one off, eg. marriages, births, or recurring annual events such as religious festivals; family origin stories or meaning of family names
- Personal and Family role in community: Status; relationship to others
- Personal and family political activity: Views; membership of organisations; roles and activities; consequences of these (past, present, future)
- Location: Types of accommodation; moves from to where; neighbourhood/community
- description; wider environment issues

### **Education/ Work:**

- Where educated (names and addresses if possible); age started; subjects studied
- and stages reached; qualifications and awards; certification and recognition; gaps
- in education; number of years in total; formal or informal education
- Relevant contextual information (from an independent source) about the education
- system in the country of origin (if school years are being considered as age markers check first about how children progress through year groups)
- Employment history; duration and location; paid and unpaid; location and type; choice or forced

### **Country and Cultural Information:**

- Key cultural factors: Religious beliefs, values systems, community expectations; caste, tribe, sect, gender, age or class issues; ritualistic or rites practices that may be relevant
- Concept of 'age' in young person's country and culture of origin: Recording/administrative practices in country of origin and variations in practice; Different calendar systems; legal requirements and arrangements relating to age in country of origin; Cultural practices relating to age; demographic issues relevant to the stated country of origin/ethnic group

### **Queries concerning information:**

- Are there gaps in the young person's account that are unexpected or incongruous?
- How does the young person respond to this being noted? Are there possible explanations?

- Are there aspects of the account which stand out as being highly unlikely or otherwise implausible? Are there possible explanations for this?
- Queries regarding documentation; If the young person is considered to have deliberately lied, how do they respond to this being noted? Are there possible explanations for any untruths other than a wish to deceive regarding their age?
- These should be noted (NB. It is important to raise and allow the young person an opportunity to respond to any concerns about inconsistencies or doubts about veracity. This should be done in the presence of any 'responsible adult' involved). It is also important to be aware of possible areas of miscommunication)
- Feedback: ensure initial findings fed back to the young person and contributing agencies for comment and clarification if necessary

### **Analysis of information:**

- Key evidential points: key patterns or items of information that are regarded as significant in indicating the young person's age; include contradictory indicators; include a note of any documentation that is relied upon. A chronology is key.
- Key interpretations: Active consideration of how to analyse the available information and how the above have been interpreted and understood so as to lead to a particular conclusion; include how contradictory indicators have been considered and weighed
- Bias: Workers should be aware of the potential for bias in the assessment and through the adoption of a questioning approach and the use of supervision consider how to manage any points
- Triangulation: Where possible assessments should aim to use multiple sources of information to triangulate key points and opinions
- Supervision: Findings should be jointly reviewed by the workers and their supervisor. Workers may wish to consider using a process of 'challenging and proving' to help develop conclusions.

### **Conclusion:**

- Conclusion in respect of age assessment: Statement of the indicated parameters of likely age. This should indicate whether the young person is over eighteen, under eighteen, under sixteen. Where a young person has given a stated date of birth and this is consistent with the assessment then it should be accepted as their true date of birth. Where an exact date has not been stated but a season or other period in the year is indicated (and is not inconsistent with the assessment) this should be used to state a date of birth.
- Issues of significant need arising from the assessment: Note of any significant areas of general welfare need that have been identified as a result of the assessment (irrespective of the young person's indicated likely age)

### **Confirmation assessment outcome discussed with young person:**

- Outcome: note date of discussion; any issues/disagreements/ further information put forward/ amendments etc.

### **Assessed date of birth: Signatures:**

- Lead Worker/Date
- Second Worker/Date
- Supervisor/Date

## **Appendix 4: Trauma- informed Age Assessments**

### **Background to trauma informed practice**

Trauma –informed practice<sup>16</sup> is a framework for making sure the workforce is skilled and equipped to understand the incidence of trauma, recognise the potential effects of this trauma, minimise re-traumatisation and make sure the person who has experienced trauma is supported and helped to recover. What follows will use the trauma informed framework to explore how it can apply to the needs of unaccompanied asylum seeking children particularly in relation to the age assessment process. Undertaking age assessments is very difficult. Sometimes it can feel for the young person that they are being carried out for immigration purposes rather than for the needs of the young person. Moreover, as previously highlighted, there are no reliable ways of determining age. Age assessments have significant implications not only for a young person’s care and their future safety, but also can have far–reaching implications for a young person’s health and well-being. In such a difficult process where there is potential for the young person to feel that all aspects of their identity and experiences are being disbelieved, it is perhaps more important than ever for the process to be as trauma informed as possible.

### **Being trauma informed means knowing the incidence of trauma for unaccompanied asylum seeking children**

We know that unaccompanied asylum seeking children have very high rates of traumatic experiences in their countries of origin.<sup>17</sup> They also have experienced very significant and multiple losses including the loss of caregivers and family members. Journeys to the UK are often fraught with danger and further trauma. Sometimes unaccompanied young people have also experienced trafficking for labour exploitation or sexual exploitation.

“As a group, unaccompanied asylum seeking children are unified by their separation not only from their family of origin, but from their community and country of origin and are seeking refuge from political, cultural, religious or other forms of persecution including armed conflict and war. Their experiences may include direct experience of beatings, rape or torture and they may have been witness to the beating, rape, torture and killing of others including family members. Some may have been ‘child soldiers’ or fleeing from attempts to enlist them as ‘child soldiers’ Their journeys to the U.K may include the payment and the involvement of human traffickers and those journeys may have been lengthy and fraught with danger and uncertainty. For some, the death of companions may have accompanied the journey and the possibility of death may never be far away.”<sup>18</sup>

When they arrive in the UK they often have to navigate what can be a harsh and sometimes re-traumatising asylum process. This process may make them feel that all aspects of their identity and history are being questioned and challenged in a hostile environment. Being age disputed or a negative experience of an age assessment process can have an impact on mental health and effects on young people’s identity

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<sup>16</sup> [Trauma – national trauma transformation programme | NHS Education](#)

<sup>17</sup> [Hodes M, Jagdev D, Chandra N, Cuniff A. Risk and resilience for psychological distress amongst unaccompanied asylum seeking adolescents. J Child Psych Psychiatry 2008, 49: 723-32](#)

<sup>18</sup> [Health needs of unaccompanied asylum seeking children](#)

and self-esteem that go beyond the serious implications for their asylum claim and their future safety. It is hard for them to feel they belong in Scotland because their future is uncertain. They are often preoccupied with not knowing whether family members are alive or dead. They fear being returned to situations of further trauma and danger.

The years of adolescence can be hard for all young people. But unaccompanied young people are likely to have faced multiple traumas including physical and sexual violence, sometimes exploitation through trafficking, and critically they are “unaccompanied”. This means they are without anyone who is looking after them who can buffer the effects of trauma. They therefore have to face these multiple challenges without any safety or certainty about what the future holds, and who will be there to face it with them. Their situation is thus extremely precarious and the memories of the past, the stress of the present and the fear of the future often feel overwhelming to them. The combination of high rates of traumatic experiences at the same time as a loss of social support and a loss of other protective factors can be toxic to mental health.

### **Being trauma informed means knowing the effects of trauma on unaccompanied asylum seeking children**

#### **Incidence of mental health difficulties**

It is not surprising therefore that studies have shown that unaccompanied asylum seeking children have a high rate of mental illness<sup>19</sup> and are at significantly higher risk of developing mental health difficulties than for example asylum seeking children who are accompanied.<sup>20</sup> Mental health difficulties can include PTSD, complex PTSD (PTSD symptoms, along with other difficulties including emotional regulation difficulties, relationships difficulties and changes to their view of themselves and the world) anxiety, depression, sleep disturbance including nightmares, self-harm, suicidal ideation, eating difficulties etc.

#### **How Post migration factors can exacerbate mental health difficulties.**

There is an increasing literature that shows how levels of support and inclusion in host countries, post migration, can affect the incidence of mental health difficulties for unaccompanied asylum seeking children. In the following quote from the review article “Mental health of displaced and refugee children resettled in high-income countries: risk and protective factors” (Fazel M, Reed R., Panter-Brick C., Stein A.<sup>21</sup>) it is clear that the circumstances in host countries can exacerbate or ameliorate the difficulties faced by unaccompanied asylum seeking children and affect their levels of well-being and mental health difficulties.

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<sup>19</sup> [Huemer J., Karnik N., Steiner H. Unaccompanied refugee children Lancet 2009 Feb. 21;373\(9664\): 612-614](#)

<sup>20</sup> [Michelson D., Sclare I., Psychological needs, service utilisation and provision of care in a specialist mental health clinic for young refugees: a comparative study, Clin. Child Psychol psychiatry 2009 apr; 14 \(2\): 273-296](#)

<sup>21</sup> [Mental health of displaced and refugee children resettled in high-income countries: risk and protective factors](#)

“Cumulative adversities usually worsen health outcomes, exerting more powerful effects than any factor alone. The most harmful pathways are those that involve exposure to violence—whether individually experienced, witnessed, or feared—and the loss of family support by death or violence, for both behavioural and emotional mental health outcomes. As emphasised by the WHO framework, risks cannot be simply added up, but the inter-related pathways that lead to the outcomes need to be assessed. Thus, although distal or premigration factors contribute to childhood adversities, repeated exposure to violence and lack of safety soon after migration or displacement are of pivotal importance.”

It is therefore very important that all procedures involving unaccompanied asylum seeking children are carried out in a **safe and trauma- informed way**, that they are not **re-traumatising** and they do **not exacerbate or worsen mental health difficulties**

### **Being trauma informed means understanding the effects of trauma on the age assessment process**

#### **The process may be re-traumatising:**

- A process can be re-traumatising if aspects of the process, by their similarity to the original trauma, can evoke the same feelings in the young person. Thus for example being shut in a room and repeatedly questioned or challenged could be re-traumatising for a young person who has been tortured.
- Having to recall traumatic memories can trigger reliving and/or flashbacks whereby the young person believes that the trauma is happening again and experiences the same thoughts, feelings and/or behaviours as they did during the traumatic event .It may for example make the young person recall the same feelings of fear or terror. It may elicit similar responses in the young person as happened at the time of the trauma when they were trying to survive what was happening, for example, the young person may dissociate (cut off in some way from what is happening).

#### **Trauma related difficulties may interfere with the young person’s ability to answer questions:**

- If a young person’s trust has been repeatedly abused they may find it hard to trust the worker and this can interfere with their ability to feel safe and comfortable and to go along with the process
- Fear, shame, guilt may interfere with their ability to recall aspects of what has happened to them for example if they experienced sexual violence.
- Depression and PTSD can interfere with memory. It may make it difficult to remember specific events. It may make it difficult to give a consistent or coherent autobiographical account.<sup>22</sup>
- Those who have been violent or abusive to young people may have told them not to give information to others or have threatened them or family members with

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<sup>22</sup> [See the Centre for the study of Emotion and Law for helpful summaries](#)

violence if they disclose and this can contribute to the fear and difficulty of giving information. The feared consequences of giving information may terrify the young person into silence or denial.

**Trauma-related difficulties mean that workers have to be very careful about how they understand and interpret a young person's responses:**

- Avoidance of painful memories, dissociation and numbing, may mean that young people don't show the emotion the worker expects.
- Other mental health difficulties eg. irritability associated with depression or the effects of flashbacks may be erroneously viewed as a young person's unwillingness to cooperate.
- There may be cultural and gender differences in the meaning made of trauma and in how the young person responds.

**Being trauma informed means operating according to the principles of trauma informed practice**

The following are agreed principles of trauma informed practice and should apply to the process of conducting age assessments. Trauma experiences undermine safety, take away an individual's control, demean and dis-empower. Principles of trauma informed practice do the opposite.

**Safety:**

- Before an age assessment is carried out a young person needs to be physically safe eg. safe from traffickers but also to feel safe e.g. that they have emotional support from others and that they have ways that they can soothe and comfort themselves if they become distressed
- A young person should not re-traumatized by having to repeat giving distressing information that they have already given in a different context
- A safe interview may mean practical things like helping the young person to be able to take breaks or stop interviews if they become distressed and by attending to the physical layout of a room or building, the gender of the worker etc.
- This may mean making sure that all interactions with a young person are the opposite of traumatic and are conducted in a **context of care** where there is a commitment to making sure the young person is getting all the help they need.
- Ensuring young people are getting the mental health input they need if there are signs that the traumatic past is interfering with their current sense of safety or where there are other signs of distress or of dissociation.
- Taking advice from mental health professionals if relevant about whether and how to conduct an age assessment process where there are concerns about mental health

**Trustworthiness:**

- This could mean that there should be a transparency and accountability about

how the process is conducted, how the process is explained to young people and what information any judgment is based upon.

- Other people in the young person's life should not be asked to contribute without the young person's awareness and consent, unless consent is not required per exceptions in the law.
- It could mean making sure the young person understands what is happening and there isn't anything unpredictable about the process.
- It may mean keeping to all agreements and earning respect by the way the worker relates to the young person
- It means a commitment to acting according to the "best interests" principle at all times and to the principle that whatever the age these young people are estimated to be, they are likely to be **traumatised**, they are **vulnerable** and they are **alone** and **may be in need of care and protection**.
- It may mean being transparent about what is possible and what is not possible in the age assessment process for example it is not possible to determine age as there is no scientifically accurate or reliable way to do this, it is only possible to make a judgment about age.

### **Empowerment:**

- This means involving the young people in all aspects of the process and listening well to what the young person is communicating. It means involving them in responding to the preliminary decision, helping to explain to them how the decision was reached it and allowing them the opportunity to respond in ways that may affect the final outcome. The young person can then offer further information or explanation before a final decision is made.
- It may mean making sure they have a way of appealing any decisions they are not happy with
- It means acting in ways that respect children's rights
- It means operating in ways that give young people the benefit of any doubt
- It means a commitment to their ongoing safety and a life free of trauma so they can recover from what they have been through and flourish

### **Choice:**

- This may mean giving genuine choices about how the process is conducted, for example gender of worker or interpreter.
- It may mean giving genuine choices about where and with whom the process is conducted so it is as safe and comfortable as possible.

### **Collaboration:**

- This could involve a commitment to conducting the process in a spirit of joint inquiry, not as an adversarial process where the credibility of young people is being questioned
- It could mean making sure there are no interpretations of the young person's

behaviour made that cannot be shared and talked through with the young person so that they always have a chance to explain or to get another worker to help them explain

## **Help to recover**

The goal of all trauma informed practice is to help the person recover from the effects of their trauma experiences. The age assessment process fits within other tasks that social work has to do in order to ensure the needs of this vulnerable group are met. This can include helping the young person to heal or recover from the potential effects of trauma and helping those who have physical or mental health difficulties as a result of their trauma to get the help they need. It is important therefore to consider:

- How unaccompanied asylum seeking children are screened to pick up physical and mental health difficulties when they arrive and ensuring that they get timely, accessible and appropriate help, using an understanding of any difficulties to inform the age assessment process.<sup>23</sup>
- Making sure that any concerns picked up during age assessment process and any needs identified are acted upon
- Making sure there is multiagency collaboration over the process and conclusions of the age assessment process to make sure they are as trauma informed as possible
- Having knowledge of evidence-based psychological therapies and the access pathways to make sure young people who have mental health difficulties linked to their trauma experiences can access timely and appropriate help

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<sup>23</sup> [Health needs assessment: Unaccompanied children seeking asylum](#)

## **Appendix 5: Relevant Legislation and Guidance**

The requirement for conducting an age assessment is derived from Section 55 of the Borders, Citizenship and Immigration Act 2009 which details the duties regarding the welfare of children. Responsibility for carrying out assessments, where there is uncertainty or disputes about age, sits with the relevant local authority. How local authorities carry out this out will be shaped by both the body of case law which determines the parameters and minimum standards that should apply and by agency expectations of assessment practice.

In delivering services professionals need to ensure that practice is compliant with children's rights and legislation.

In 1991 the UK ratified the United Nations Convention on the Rights of the Child which details the Articles on children's rights including the right to protection and to have their best interests a primary consideration in all state interventions (under 18s). A migrant child should be afforded the same levels of protection as an indigenous child.

In Scotland the relevant statutes that refer to the safeguarding and support of children and young people are:

- the Children (Scotland) Act 1995;
- the Protection of Children (Scotland) Act 2003; the Children's Hearing (Scotland) Act 2011;
- the Children and Young People (Scotland) Act 2014 ;and the Human Trafficking and Exploitation (Scotland) Act 2015.

Where an asylum seeking young person is believed to be a victim of trafficking, Section 12 of the Human Trafficking and Exploitation (Scotland) Act 2015 must be adhered to. Section 12 stipulates that, where a relevant authority (including a local authority) has reasonable grounds to believe that a person may be a victim of an offence of human trafficking and the authority is not certain of the person's age but has reasonable grounds to believe that the person may be a child, the authority must assume that the person is a child for the purposes of exercising its functions under the relevant enactments until an assessment of the person's age is carried out by a local authority, or the person's age is otherwise determined.

With regard to guidance which has a general relevance for social workers undertaking work with asylum seeking children, the following should be noted: The National Guidance for Child Protection in Scotland 2021 - updated 2023 - gov.scot describes the additional risks and vulnerabilities experienced by young asylum seekers and provides practice guidance in relation to their treatment by statutory and voluntary agencies.

The Scottish Government previously published in 2013 Inter-agency Guidance for Child Trafficking, which provides information and guidance to all members of the children's workforce so that professionals and others are able to identify trafficked children and make appropriate referrals so that victims can receive protection and support.

## **Appendix 6: Merton Note**

Please note that the case law referred to in this guidance is intended to illustrate cases that are relevant to age assessments at the time of drafting this guidance. This is a developing area of law, therefore, the case law is subject to change. The cases referred to in this guidance should be used for reference only. Should you encounter a similar legal issue, we would recommend that you seek up to date independent legal advice.

There is no statutory guidance on how to conduct an age assessment. Instead, a body of case law has developed which gives guidance on the process required. Until 2009 with the case of R(A) v Croydon, R(M) v Lambeth [2009] UKSC 8, the leading case in this area was the case of R (B) v Merton [2003] EWHC 1689 (Admin). The Merton case remains important from the perspective of setting out an assessment approach. In the ‘Merton’ case, the judge set down broad guidelines of how age ought to be assessed in respect of unaccompanied minors who arrive in the UK without documentary evidence to prove their age.<sup>24</sup> The judge confirmed that the local authority “cannot simply adopt a decision made by the Home Office” and outlined the following points, many of which have been reiterated in subsequent cases:

- An assessment cannot be made solely on the basis of appearance, and should be a holistic one taking account of the young person’s appearance, demeanour, background and credibility.
  - Any assessment should take into account relevant factors from the child’s medical, family and social history, and the decision maker should seek to elicit the general background of the application, including his family circumstances and history, his educational background and his activities during the previous few years. Ethnic and cultural information may also be important.
  - There was a duty on the decision makers to give reasons for a decision that an applicant claiming to be a child is not a child.
  - The young person should be given an opportunity during the assessment to answer any adverse points the decision maker was minded to hold against him.
  - Age assessments must be conducted by experienced trained assessors and that all the safeguards to ensure fairness are in place.
  - If the decision maker is left in doubt, the claimant should receive the benefit of that doubt.
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- A ‘Merton compliant’ assessment will be in accordance both with the Merton judgment and subsequent case law addressing age disputes. Subsequent case law on appropriate adults (referred to as “responsible adults” in this guidance) is varied. Case law establishes that a young person has a right to be accompanied during the assessment by a responsible adult but that there is no rule requiring an responsible adult in an interview. Best practice is outlined in section 5. Case law also establishes that a local authority cannot simply rely on the decision of the First Tier Tribunal (Immigration and Asylum), or solely on the conclusion on a paediatric or other medical assessment. A list of leading cases is found in **Appendix 7** which local authorities may find useful to consult.

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<sup>24</sup> [R\(B\) v Merton 2003 judgement](#)

## **Appendix 7: List of Relevant Case Law**

Please note that the case law referred to in this guidance is intended to illustrate cases that are relevant to age assessments at the time of drafting this guidance. This is a developing area of law, therefore, the case law is subject to change. The cases referred to in this guidance should be used for reference only. Should you encounter a similar legal issue, we would recommend that you seek up to date independent legal advice.

### **Issue: Approach of Courts**

#### **R. (on the application of AI) v West Berkshire Council [2025] EWCA Civ 136**

The question of reasoning in age assessment cases is fact and context specific. As such, the circumstances of each case will dictate how much reasoning is required.

The tribunal's role in age assessments is inquisitorial rather than adversarial, meaning they are not required to adopt one party's case or another but rather decide based on the facts of the case. Furthermore, as a matter of principle a tribunal may choose a different date of birth than that presented by the parties, but it is not obligated to do so. The tribunal's decision should be based on the specific circumstances and material issues before it in the case.

#### **Ahmat v Aberdeenshire Council [2025] CSOH 15**

The court questioned the reliability of both A's self-reported evidence and the method used by the defendant's social workers to assess his age, deeming the assessment inadequate. His evidence was largely self-reported and contained inconsistencies and evasive responses, which weakened the validity of his assertions.

The social workers for the defendant conducted a brief age assessment, primarily based on A's physical appearance and demeanour. The court found this approach insufficient and not aligned with best practices for age assessments, which typically involve a more thorough process.

#### **Ibrahimi v Glasgow City Council [2025] CSOH 14**

As there were no pending applications or decisions relying on the age assessment, the court considered the matter to be academic. Given this point and that the claimant was already 18, the court did not need to rule on further

#### **R. (on the application of LS) v Warrington BC [2024] EWHC 2872 (Admin)**

The potential harm to the claimant, especially in terms of mental health and loss of support, outweighed any potential harm to the defendant.

Therefore, interim relief was granted, meaning the claimant should be treated as a child until the final decision on her age is made.

## **R. (on the application of KRA) v Cheshire East Council [2024] EWHC 575 (Admin)**

The evidence raised a factual case which, taken at its highest, could properly succeed in a contested factual hearing. The claim was not weak and there was a very real prospect of success. The reliable test was whether the material before the court raised a case which, taken at its highest, could properly succeed in a contested factual hearing. There was no higher threshold requiring the claimant to have a strong prima facie case. Instead, the court's provisional assessment of the claim's strength or weakness could be a factor which informed the balance of justice. This stage of the test involved balancing (a) the risk of injustice where a claimant continued to be dealt with as an adult, against (b) the risk of injustice to the local authority (including resource implications) if an interim order was made but the local authority was subsequently vindicated.

## **Abdullah v Aberdeenshire Council [2024] CSOH 8**

An individual's petition for judicial review of a non-statutory age assessment was incompetent. An ordinary action for declarator was a competent means by which the court could determine age. It would be undesirable innovation for the Court of Session judicially to review decisions complained of on their merits because, in the case of age assessments for the purposes of the Children Act 1989 s.20 and corresponding s.25 of the 1995 Act, the power to decide a person's age in the event of dispute had clearly been committed to the court rather than to any other body.

## **JR147's Application to Apply for Judicial Review, Re | Westlaw UK [2023] NIKB 67**

The court should be the primary decision-maker where a Convention right was in issue, but the court should be slow to exercise its jurisdiction when the matter could be dealt with by a specialist tribunal that was normally best placed to decide matters of factual dispute. In this case it was correct to intervene and declare the individual's age as 17.

## **AU v Glasgow City Council (Opinion of Lord Woolman) [2017] CSOH 122**

AU held that individuals seeking to challenge an age assessment in Scotland can do so by Declarator or Judicial Review in its fact-finding sense as set out in R(A) v London Borough of Croydon [2009] UKSC 8.

Held that Declarator is a competent remedy<sup>25</sup>.

## **MC v Liverpool City Council [2010] EWHC 2211 (Admin)**

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<sup>25</sup> In light of the subsequent case of *v Abdullah v Aberdeenshire Council* [2024] CSOH 8, the court has confirmed that judicial review will not be a competent remedy, and an ordinary action for declarator is to be used.

When deciding a young person's age, the court may reach its own conclusion as to the young person's age, different to the age given by both the young person and the local authority.

R(A) v London Borough of Croydon; R(M) v Lambeth [2009] UKSC 8  
The local authority may decide if a young person is taken to be a child for eligibility for support under Children Act 1989.

If the above is disputed, the question of whether someone is a child for the purposes of s.20(1) of the Children Act 1989 is a decision for the court as a matter of established fact

### **Issue: Approach to Age Assessments**

#### **R. (on the application of AM) v Sheffield City Council [2024] EWHC 2670 (Admin)**

Again, complaints about the legibility of the form and the way it is filled in must be considered on a case-by-case basis. Here, the court found that the handwritten notes were legible, and did not undermine the fairness of the procedure.

The potential harm to the claimant, especially in terms of mental health and loss of support, outweighed any potential harm to the defendant.

Therefore, interim relief was granted, meaning the claimant should be treated as a child until the final decision on her age is made.

#### **R. (on the application of SH) v Sheffield City Council [2024] EWHC 2669 (Admin)**

It was not unfair for the notes on the age assessment to be handwritten – the notes were legible and did not affect the fairness of the procedure. Additionally, the court stressed that, the fairness of the process, not the detailed recording of every issue, is key.

There is no evidence that language or interpreter issues impacted the fairness of the assessment.

Separately, the court continued to emphasise the validity of relying on physical appearance and presentation in age assessments involving obvious cases, finding no irrationality in the approach used by the assessors.

#### **R. (on the application of OAM) v Sheffield City Council [2024] EWHC 2671 (Admin)**

It is not irrational for the Defendant to rely on physical appearance and presentation in age assessments, as established by case law.

The court acknowledges that in certain circumstances, physical appearance and

presentation can be a valid basis for determining an individual's age.

**R. (on the application of MB) v Liverpool City Council [2024] EWHC 3574 (Admin)**

The court found no issue with the absence of an appropriate adult, as it did not affect the fairness of the process.

It was also not an irrational decision to fail to undertake a new assessment. Here, there was no independent or documentary evidence to challenge the original conclusions.

**R. (on the application of MAA) v Hounslow LBC [2024] EWHC 1894 (Admin)**

In cases where it is clear that the person is at one extreme of the age spectrum (either clearly a child or clearly not a child), there is no need for an exhaustive assessment process.

Furthermore, if it is obvious that the individual is significantly beyond the age of a child, a more extensive assessment is unnecessary. Separately, the absence of an appropriate adult does not automatically render the age assessment unfair, as long as it remains procedurally fair.

Here, because the claimant's age was clear and obvious, the absence of an appropriate adult did not affect the fairness of the process.

**JR194's Application for Judicial Review, Re JR235's Application for Judicial Review. Re JR256's Application for Judicial Review [2024] NIKB 46**

These cases emphasise the importance of collaboration between the parties involved in the age assessment process. In these cases, the Trust and the Respondents should have worked together in the age assessment process and that an adversarial approach should have been avoided. Rather, the parties should have focused on their common obligation of ensuring an accurate age assessment is made.

**R. (on the application of SB) v Kensington and Chelsea RLBC | Westlaw UK [2023] EWCA Civ 924**

There was no rule requiring a young person to have an appropriate adult in an age assessment interview. The judge significantly understated the force of the social workers' conclusion that S was not a child. In the light of their views, giving S an opportunity to comment on points on which they had formed a negative view of information he had provided was unnecessary. The judge had been wrong to quash the decision.

**AB v Kent CC | Westlaw UK [2020] EWHC 109 (Admin)**

It was not illegitimate for the Home Office to have a policy of initial assessment; an experienced social worker might be confident that an individual was either an adult or a child and it would therefore be pointless to continue an inquiry process merely to achieve full Merton compliance.

**R. (on the application of K) v Milton Keynes Council | Westlaw UK [2019] 4 WLUK 180**

As found in Merton, the law does not require a local authority to carry out a full assessment in clear and obvious cases.

**AS v London Borough of Croydon [2011] EWHC 2091 (Admin)**

Most appropriate age assessment approach is “to use a holistic evaluation, incorporating narrative accounts, physical assessment of puberty and growth, and cognitive and behavioural and emotional assessments” undertaken by social workers with relevant training.

**R(FZ) v London Borough Council of Croydon [2011] EWCA Civ 59**

Young person should be given a proper opportunity, as part of the interview process, to respond to any points which the interviewers considered adverse to the young person’s case prior to a decision being given.

A young person should have the opportunity to have a responsible adult present at the interview with them<sup>26</sup>.

**R(B) v Merton London Borough Council [2003] 4AER 280**

Except in clear cases, age should not be determined solely on the basis of physical appearance. Background of the young person should be sought, e.g. family history, education etc.

Local authority should not simply adopt decision of Home Office but may take information obtained by the Home Office into account.

Interpreter should be present at interviews. Detailed note of interviews should be kept. Young person should have inconsistencies or doubts put to her to allow her to respond. Local authority has obligation to give adequate reasons for its decision

**Issue: Merton Compliance**

**R. (on the application of HAM) v Brent LBC | Westlaw UK [2022] EWHC 1924 (Admin)**

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<sup>26</sup> But note the subsequent case of R. (on the application of SB) v Kensington and Chelsea RLBC | Westlaw UK [2023] EWCA Civ 924 which does not support this position in every case. It is stated that: “There is no rule of law that a young person must have an appropriate adult in an age assessment interview. In particular, [FZ] v Croydon is not a sound basis for any such supposed rule”

Confirmed three crucial aspects of Merton compliant assessment:

- (a) there was no burden of proof or assumption either way;
- (b) the decision had to be based on reasonable enquiry; and
- (c) if the local authority provisionally concluded that the asylum seeker was lying about their age, that had to be explained to them, and they had to be given an opportunity to respond.

There was no binding determination that an assessment undertaken by a single social worker could not, for that reason alone, meet the legal standard of fairness. (There is discussion at para.19 around the question of whether two social workers are required. Previous case law has suggested that it is, however, Merton states only that two would be “beneficial” only.)

**R. (on the application of M) v Waltham Forest LBC | Westlaw UK [2021] EWHC 2241 (Admin)**

An applicant should be given a fair and proper opportunity, at a stage when a possible adverse decision was no more than provisional, to deal with important points adverse to his age case which might weigh against him. This did not happen and so assessment was not Merton compliant.

**ZS (Afghanistan) V Secretary of State for the Home Department [2015] EWCA Civ 1137**

“Merton compliant” means compliant with the requirements set out by Merton AND subsequent case law. However, the law at the time of the assessment applies.

**Issue: Re-assessments**

**R. (on the application of F) v Manchester City Council | Westlaw UK [2019] EWHC 2998 (Admin)**

The local authority had not acted irrationally in refusing to re-assess their age as there was uncertainty around the evidence and how it had been obtained.

**Issue: Presumption of age**

**R(S) v London Borough of Croydon [2017] EWHC 265 (Admin)**

A local authority is exercising its social services functions towards children not merely when actually providing support to children, but also when carrying out ancillary functions such as determining which individuals are and are not children.

It was arguable that the local authority should treat young people whose age had not yet been determined as children in order to comply with its duties under section 11 of the Children Act 2004 (c.f.s.17 Children (Scotland) Act 1995).

Adult hostel accommodation pending the outcome of the age assessment was unsuitable for the young person in the circumstances.

The local authority had acted unlawfully in refusing to support and accommodate the young person pending age assessment.

### **Issue: Benefit of the Doubt**

#### **R (AS, Francesco Jeff) v Kent County Council [2017] UKUT 00446 (IAC)**

The proper application of the 'benefit of the doubt' in age assessment cases is that where, having considered the evidence, the decision maker concludes there is doubt as to whether an individual is over 18 or not, the decision-maker should conclude that the applicant is under 18.

When establishing a specific date of birth, the 'benefit of the doubt' requires a sympathetic assessment of the evidence.

#### **A v London Borough of Croydon & SSHD; WK v Kent County Council & SSHD [2009] EWHC 939 (Admin)**

A young person should receive benefit of the doubt if the LA has doubt about his/ her age.

Unless satisfied that the local authority's assessment is flawed, the Secretary of State will rely on that assessment.

Local authorities cannot completely disregard medical reports from paediatricians, but they decide how much weight to attach to them and are entitled to prefer the view of the assessor.

### **Issue: Dental Assessments**

#### **R(ZM and SK) v London Borough Of Croydon [2016] UKUT 559 (IAC)**

How, and to what extent, the stages of dental development are indicative of age (and the extent to which it can be assessed by a dental examination) is a matter of significant debate.

Dental assessment techniques – Mandibular Maturity Markers (MMMs) – Root Pulp Visibility (RPV) and Periodontal Ligament Visibility (PLV) are unreliable.

The Croydon v Y case should not be read as an absolute prohibition on a person from refusing to undergo a dental examination.

X-rays for the purpose of age assessments are deemed inaccurate and unethical by the British Dental Association, but that information from dental x-rays may provide some assistance in age assessments.

Judges should be prepared to question the basis of opinions in a report and should be wary of accepting age assessments that rely on the reputation of the author rather than the detail, consistency and currency of the data.

### **London Borough of Croydon v Y [2016] EWCA Civ 398**

In order to continue his claim against the LA, claimant would have to agree to an age assessment by means of a dental X-ray.

Accepted that dental x-rays are controversial but it was not for the court to decide whether this was the case or not and this cannot be the reason for refusing an order.

See the following case regarding reliance on medical reports under the heading "Issue: Home Office Reliance:" **A v London Borough of Croydon & SSHD; WK v Kent County Council & SSHD [2009] EWHC 939 (Admin)**

### **Issue: Documentary Evidence**

#### **R(GB, Francesco Jeff) v Oxfordshire County Council [2015] UKUT 429 (IAC)**

It is possible for age to be proved on the basis of documents alone which prima face confirm the individual's stated age.

Such documents must be considered as evidence and weighed accordingly, even if the manner by which they were obtained seems implausible.

### **Issue: First-Tier Tribunal Assessments**

#### **R(PM) v Hertfordshire Council [2010] EWHC 2056 (Admin)**

If the First-Tier Tribunal (Immigration & Asylum Chamber) assess a young person at a different age to the local authority, the local authority is not bound by this assessment.

It is instead for the local authority to conduct a reassessment taking into account the Tribunal's findings and evidence before it.

### **Issue: Home Office Reliance (and detention)**

#### **Home office v VS [2015] EWCA Civ 1142**

Where there is a dispute over the child's date of birth and there is a local authority age assessment, the Home Office is required to make reasonable inquiries in order

to arrive at an informed decision on the issue of the child's age.

The Home Office is required to obtain the reasons on which the conclusion (of age) was based.

The Home Office unlawfully detained the child and ought not to have relied on a mere superficial explanation of the local authority's age assessment.

**A v London Borough of Croydon & SSHD; WK v Kent County Council & SSHD [2009] EWHC 939 (Admin)**

A young person should receive benefit of the doubt if the LA has doubt about his/ her age.

Unless satisfied that the local authority's assessment is flawed, the Secretary of State will rely on that assessment.

Local authorities cannot completely disregard medical reports from paediatricians, but they decide how much weight to attach to them and are entitled to prefer the view of the assessor.

## **Appendix 8: Home Office Publications**

Local authorities working with young asylum seekers will need to coordinate their arrangements with UKVI practices relating to age disputes and the processing of asylum claims. Below are the relevant Home Office publications at the time of writing.

[UK Government guidance on Assessing age](#)

[Processing an asylum application from a child and understanding assessment outcomes](#)

[General guidance setting out UKVI practice relating to asylum support](#)

[National Age Assessment Board: The operation of the National Age Assessment Board and sections 50 and 51 of the Nationality and Borders Act 2022](#)

## **Appendix 9: Guardianship Scotland**

The Guardianship Scotland is an additional national support service funded by the Scottish Government and delivered in a partnership between Aberlour and the Scottish Refugee Council; Aberlour will be the lead provider from 2025. The service works with children and young people who arrive in Scotland unaccompanied and separated from their families, providing support to unaccompanied asylum seeking and trafficked children and young people.

Guardians support young people by helping them navigate the immigration and welfare processes, and feel supported and empowered throughout the asylum process, assisting them to access help when they need it and make informed decisions about their future.

Local authorities have statutory responsibilities for the provisions of care and support to Looked After Children and the Guardianship Scotland can work in partnership with local authorities to provide additional support to unaccompanied young people (age does not require to be assessed prior to referral and engagement). The service may also be able to assist social workers in identifying country specific information such as cultural practices etc which could contribute to age assessments. Further information about the current services can be accessed here: [Aberlour | Guardianship Scotland: National Child Trafficking Support Service](#)

## **Appendix 10: Additional Sources of Information Possible sources of country of origin information:**

[Scottish Guardianship Service \(see also Appendix 9\)](#)

[Amnesty International](#)

[Home Office Country policy and information notes](#)

[Scottish Refugee Council](#)

[United Nations High Commission for Refugees](#)

[Every Child Protected Against Trafficking \(ECPAT\)](#)

[United Nations International Children's Emergency Fund \(UNICEF\)](#)

### **Additional reading/ information:**

[The Children's Legal Centre Age Assessment Fact Sheet](#)

[The Association of Directors of Children's Services: Age assessment guidance](#)  
October 2015

[The Association of Directors of Children's Services: Joint working guidance](#) March  
2023



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Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83691-619-2 (web only)

Published by The Scottish Government, July 2025

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1595254 (07/25)

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