



Llywodraeth Cymru
Welsh Government

Unaccompanied Asylum Seeking Children

Age Assessment Toolkit

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Section 1: Background, legal and policy context

Purpose of this Toolkit

This Toolkit is intended primarily to support local authority staff undertake age assessments of Unaccompanied Asylum-Seeking Children and Young People (UASC).

Social workers have the key role in conducting age assessments and must be equipped to perform their role with adequate guidance, training and support from line managers.

Social workers should not be isolated in conducting age assessment which should be conducted using a multi-agency and holistic approach requiring social work managers, legal teams and partner agencies to engage with the Toolkit.

Social workers are best supported when all participants in the age assessment process become knowledgeable and competent.

Development and engagement

The Wales Strategic Migration Partnership (WSMP) published the first Age Assessment Toolkit in 2015 which proved to be a useful resource in a developing area of work. It had become clear, however, that the Toolkit required updating to reflect key legislative changes relevant to UASC, in particular the Social Services and Well-being (Wales) Act 2014 (SSWBA); to reflect changes in case law; and to reflect the experience gained in implementing these legislative changes onward from 2016.

The Welsh Government commissioned review work comprising a wide variety of conversations with practitioners familiar with the WSMP Toolkit and others who had experience of the age assessment process, in order to seek views on what worked with the current Toolkit and what could be improved upon:

- several local authority representatives as key players in this field (Cardiff, Newport, Rhondda Cynon Taff and Swansea)

- a specialist Immigration lawyer and a former Immigration Judge
- a former senior Welsh Government official and a former Director of Social Services
- several key organisations supporting children and young people and facilitating their voice: Hawliau training, National Youth Advocacy Service (NYAS) Cymru, Tros Gynnal Plant (TGP) Cymru, Barnardo's Cymru
- Public Health Wales ACEs Hub and
- the WSMP.

It was clear from these conversations that the Toolkit developed by the WSMP with key partners, retained credibility and integrity with those who had experience of using it and it was decided therefore to retain its substantive content appropriately updated and rebalanced.

'What Matters' assessment and 'Merton Compliant' age assessment

Social workers routinely work with sensitive and challenging cases often involving safeguarding. They regularly conduct well-being ('what matters') assessments and make decisions which affect the lives of children, young people and their families. What may be more challenging about undertaking full age assessments for unaccompanied asylum-seeking children and young people is that these happen less frequently and there is less experience and capacity overall in this area, both within the social work workforce and in the specialist legal practitioner workforce.

The SSWBA does not specifically set out a duty to assess age. However, the duty to support children entails a duty to assess eligibility for children's social services. If there is no doubt about a young person's claimed age, there is no need to assess age however if there is doubt then an age assessment should be carried out in order to determine access or not to children's social services.

This Toolkit builds upon the practice of assessment in social work more generally and which can include the assessment of age. It covers both the consideration of age that can take place during the well-being assessment process and also provides specific guidance around the age assessment process regarded as ‘Merton compliant’ which may, on occasion, be required for these children and young people. While other judgements are referenced in this Toolkit, Merton remains the landmark judgement in this area.

- **R (B) v London Borough of Merton 2003**

The Judge confirmed that the local authority “cannot simply adopt a decision made by UK Visas and Immigration”. The Judge also stated that assessments cannot be made on the basis of demeanour only; that a range of other factors must be taken in to account; there is a duty on decision makers to give reasons for their decisions; the child/young person must be allowed to participate; that two social workers must conduct the assessment together and where there is doubt about age, the child/young person must receive the ‘benefit of the doubt’.

Social workers should be aware of the other most recent judgements in relation to age assessment:

- **R (K) v Milton Keynes Council (2019)** 4 WLUK

180 found that Merton recognised that no full assessment was required in clear cases. It was lawful for the authority to proceed in this manner without a full assessment. A full, detailed age assessment should be reserved for cases of doubt.

- **AB v Kent County Council (2020) EWHC**

109 (Admin) describes an amalgamation of the requirements in Merton and subsequent case law all of which is contained in the Home Office’s Assessing Age for Asylum Applicants¹ and the Judge’s summary is included at Annex 6.

The Toolkit contains:

- best practice
- a range of important and contextual information, and
- signposts to where further information can be found.

The Toolkit is **for guidance only and is not legally binding**. However, following this guidance alongside good social work practice and the SSWBA will not only ensure better well-being outcomes for the children/young people involved, but will help in preventing challenges to the assessment and possible Judicial Review.

Social Services and Well-Being (Wales) Act 2014 (SSWBA)

The SSWBA requires a person-centred approach to assessing and meeting need.

Described as a ‘what matters’ conversation which must be used with children and young people, it sets the basis for a refreshed approach to the relationship between people who use social care services and those which provide them.

The key Parts of the Act² are set out below with Codes of Practice³ providing further more detailed statutory guidance.

Part 3 Assessing Needs: creates a right to assessment when it appears a person may have a need for care and support. The assessment is based on personal well-being outcomes and any barriers to achieving these. It should be noted here that the SSWBA entirely replaces the concept of Section 17 of the Children Act 1989 which while giving local authorities duties and powers to provide services to children who need them to support their family care, because there is no specific duty toward an individual child (R(G) v Barnet (2003) UKHL 57, (2004) 1 FLR 454⁴), a child who is assessed as needing a service may not necessarily receive it.

1 www.gov.uk/government/publications/assessing-age-instruction

2 www.legislation.gov.uk/anaw/2014/4/contents – the Act

3 <https://gweddiill.gov.wales/topics/health/socialcare/act/code-of-practice/?lang=en> – Codes of Practice

4 <https://publications.parliament.uk/pa/ld200203/ldjudgmt/jd031023/barnet-1.htm>

Services are therefore made discretionary and may be constrained by lack of resources. In contrast, Section 21 and other provision within the SSWBA impose a duty on the local authority to provide a service that meets an assessed need where certain eligibility criteria are reached.

Part 4 Meeting Needs sets out how this need will be met which may be through a Care and Support Plan which under Part 4 can, where needed, provide the basis for Part 6 Child Protection Plans and for care plans for court under Section 31A, Children Act 1989.

Part 6 sets out duties on local authorities relating to **looked after and accommodated children**. Accordingly, when UASC arrive in Wales, they are placed in the care of foster families or enter independent, supported living arrangements. Section 76 specifies that a looked after child should be offered accommodation, pending a full assessment of need. Further, it states the local authority must provide accommodation to children where there is no one with parental responsibility, where children are lost or abandoned, or circumstances prevent them from receiving appropriate care and support from their parents. Section 78 specifies that before making any decision with respect to a looked after child, or a child the local authority proposes to look after, the local authority must have regard to the views, wishes and feelings of the child and any other relevant person.

This toolkit is clear that unaccompanied asylum seeking children and young people are to be treated as 'looked after' in accordance with SSWBA.

Part 7 sets out the duties on local authorities relating to safeguarding children (and adults) and provides the basis for the Wales **Safeguarding Procedures**⁵ and their associated All Wales Practice Guides⁶.

Part 9 Co-operation and Partnership sets out duties on public bodies relating to co-operative working and information sharing.

Part 10 Complaints, Representations and Advocacy Services sets out the functions of local authorities with respect to advocacy, complaints and representations. Children and young people can often find expressing their opinions, experiences and emotions difficult, particularly when they are involved with complex processes in an adult dominated environment.

Using the toolkit with statutory and other relevant guidance and case law

This Toolkit should be used in conjunction with:

- the SSWBA, its Codes of Practice and Regulations
- the Swansea Children's Legal Centre practice guide for social workers⁷ and the Welsh Government briefing about the Social Services and Well-being (Wales) Act 2014 and UASC rights and entitlements⁸ and
- the Wales Safeguarding Procedures and their associated All Wales Practice Guides.

For further information and context, see Annex 8.

5 www.safeguarding.wales

6 www.safeguarding.wales/chi/index.c6.html

7 <https://gov.wales/unaccompanied-asylum-seeking-children-guidance-professionals>

8 <https://gov.wales/law-care-and-support-unaccompanied-asylum-seeking-children>

Section 2: Context – Unaccompanied Asylum Seeking Children/Young People

Useful definitions

The United Nations Geneva Convention of 1951 defines a ‘refugee’ as being: *“any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his habitual residence, is unable or owing to such fear unwilling to return to it”*.

Home Office Immigration Rules⁹, define an unaccompanied asylum-seeking child as one who is ‘*under 18 years of age when the claim is submitted – claiming in their own right – separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so*’.

UASC children/young people: definitions

Usually referred to in policy terms as **UASC**, the unaccompanied asylum-seeking child/young person can be perceived within these key definitions:

- as a child/young person outside their country of origin and
- without the care and protection of parents or legal guardians.

UASC are also sometimes referred to as ‘separated children’. Should a local authority wish to place a UASC child/young person with a carer or relative, further enquiries and assessments, as for any non-UASC child/young person, would need to be in made.

For the purposes of this toolkit, the terms ‘child/young person’ or ‘children/young people’ are used to describe ‘unaccompanied asylum-seeking child/ren and young people’.

UASC children/young people: rights and entitlements

In terms of rights and entitlements, **the unaccompanied asylum-seeking child/young person is seen as a child first and foremost** and any assistance and support based on putting the needs of the child at the forefront.

While immigration legislation and policy are not devolved to Wales, most services that children/young people receive in Wales are the responsibility of Welsh Government, local authorities and other public bodies in Wales, where:

- a child/young person who is alone in the UK with no family or friends to support them, is entitled to assessment, support and protection in the same way as any other child covered under Parts 3 and 4 of the SSWBA provisions on assessing and meeting need, with such entitlements remaining until the child/young person leaves the UK or until their needs are otherwise met

⁹ www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum

- children/young people with specific and particular vulnerabilities and risks arising from abuse, neglect or other harms are entitled to the application of the Wales Safeguarding Procedures and All Wales Practice Guides
- entitlements of the child/young person to a ‘best interest consideration’ flow from the principles of the United Nations Convention on the Rights of the Child (UNCRC) and of the Borders, Citizenship and Immigration Act 2009 Section 55 duty on UKVI¹⁰.

Article 3 of the UNCRC states that *“In all actions concerning children, whether undertaken by public or private institutions, courts of law, administrative or legislative bodies, the best interests of the child shall be a primary consideration”*.

The UNCRC is embedded also within the SSWBA: *“A person exercising functions under this Act in relation to a child falling within Section 6(1) (a), (b) or (c) must have due regard to Part 1 of the UNCRC ...”*

Welsh Ministers must have due regard to children’s rights when making decisions about new and existing legislation and policies, and publish a report on how they and the First Minister have complied with the duty under the Rights of Children and Young Persons (Wales) Measure 2011¹¹.

‘Child first, migrant second’

Although immigration status is a very important element in the life of a child/young person, agencies should not let immigration status get in the way of providing support as they would to any other child. All agencies are responsible for safeguarding and promoting the welfare of the child/young person and ensuring they are engaged with in a sensitive way.

Why children and young people seek asylum

There are many reasons why a child or young person may leave their home country. Reasons include:

- persecution or the fear of persecution, due to religion, nationality, ethnicity, political opinion or social group
- having been trafficked
- parents having been killed, imprisoned or disappeared
- being in danger of being forced to fight or become a child soldier
- poverty, deprivation, climate change, and war or conflict more generally
- being sent abroad by parents/family.

¹⁰ www.legislation.gov.uk/ukpga/2009/11/section/55

¹¹ www.legislation.gov.uk/mwa/2011/2/contents

Section 3: Context – approaching the age assessment

Adverse Childhood Experiences and a trauma informed approach to age assessment

Whatever their reason for seeking sanctuary in Wales, children, young people and adults are likely to have experienced adversity and traumatic events throughout their migration journey. Adverse Childhood Experiences (ACEs) are stressful experiences occurring during childhood that directly harm a child or affect the environment in which they live. Research from Public Health Wales shows that ACEs can happen in the home country, on the journey to the UK and on arrival, and impact broadly on the mental health, behaviour, learning and academic achievement, and short term physical health of child refugee and asylum seekers. Unaccompanied minors (compared to accompanied), and children experiencing multiple ACEs, are particularly susceptible to developing poor mental health outcomes¹².

Research in Wales also shows that particular adversity that may have been experienced by UASC children/young people includes parental separation and loss, child abuse and exploitation particularly on the journey, witnessing or experiencing violence and lack of social and emotional support to cope with adversity that may have been provide by parents. A trauma informed approach recognises these factors and what would make a positive difference to the lives of children and young people to reduce the likelihood of re-traumatisation or long-term impacts of ACEs, and support resilience.

Resilience is the ability to overcome serious hardship. Factors that support resilience include personal skills, positive relationships, community support and cultural connections. For these children/young people, these might also include:

- appropriate placement taking into account age and religion, as well as individual, cultural and other circumstances
- supported independence and connection to other refugees to promote purpose and independence, and to establish ways of making a difference to their new culture
- a safe space for the expression of feelings and experiences is created and that mental health or other individual needs are identified and appropriate support is given¹³.

To reduce the risk of re-traumatisation and promote positive outcomes, a trauma informed approach should be taken to the age assessment process. See Annex 5 for more detail.

When age assessment is necessary

Unaccompanied asylum-seeking children/young people who arrive in Wales **are the responsibility of local authorities under Part 6 SSWBA which, by extension of its duty to support children, may sometimes entail a duty to establish age to determine eligibility for children's services**. However, establishing a child/young person's chronological age in the absence of authenticated documentation, may be problematic when:

¹² https://issuu.com/acesupporthub/docs/aces_in_child_refugee_and_asylum_se_c51c6b5a06cc08

¹³ https://issuu.com/acesupporthub/docs/aberystwyth_aces_and_child_refugees_report_eng__fi

- they appear younger or older than their claimed age
- they arrive without documents evidencing their identity and/or
- they arrive without documents evidencing their date of birth or
- they arrive with documents which are, or are said to be, false
- they mislead about their age
- some countries do not recognise birthdays
- they may not know their chronological age
- they may have suffered the most extreme forms of loss arising out of their experience of or witness to very traumatic events in their home country or on their journey to the UK/Wales.

All such eventualities bringing anxiety and stress with consequential effects on the ageing process in terms of appearance, demeanour, memory and language.

As a consequence of some or all of these factors, some children/young people may find their age disputed by Home Office United Kingdom Visas and Immigration (UKVI) or local authority social services.

Rationale for age assessments

Age determines how an asylum application is processed and the rights and entitlements which follow as a child or an adult. If assessed to be a child then there are entitlements to children's social services and other public services such as Education.

Challenges over the age of a child/young person typically occur when a child/young person first applies for asylum at a port of entry, Police station or an immigration screening unit and typically arises because a child/young person:

- does not know their age or
- does not possess any documentation such as a birth certificate or passport, or where immigration officials believe the

documentation to be false or does not belong to the applicant

- where immigration officials believes a person's physical appearance and demeanour strongly suggests they are over 25.

It is necessary in these eventualities for social workers to assess age in order to decide how a child/young person should be supported and thus how their application for their asylum claim should be processed.

Local authorities may on occasion conduct age assessments prior to children/young people being assessed by immigration officials, where, for example, they are dropped off by lorry inside Wales and referred by the Police. In such cases, the immigration officer will generally accept the age as assessed by the local authority (subject to evidence that the assessment was properly conducted).

The purpose of the initial 'what matters' SSWBA assessment for all children/young people who come to the notice of the local authority, is to assess whether the child/young person needs care and support and is entitled to care and support. In relation to UASC young people, an important part of this process can be an assessment of whether the child/young person is under 18 and thus covered by the scope of the SSWBA.

The majority of cases where a child/young person presents to the local authority, will not go on to require a 'Merton compliant' age assessment. Only in a small number of cases where there is any doubt to believe or accept the young person's claimed age (typically following request from UKVI or a Third Sector agency), will it be necessary to go further and establish age through a 'Merton compliant' age assessment process.

When it is deemed necessary to undertake a 'Merton compliant' age assessment, for example where age is disputed, the step by step checklist approach outlined in this Toolkit will enable:

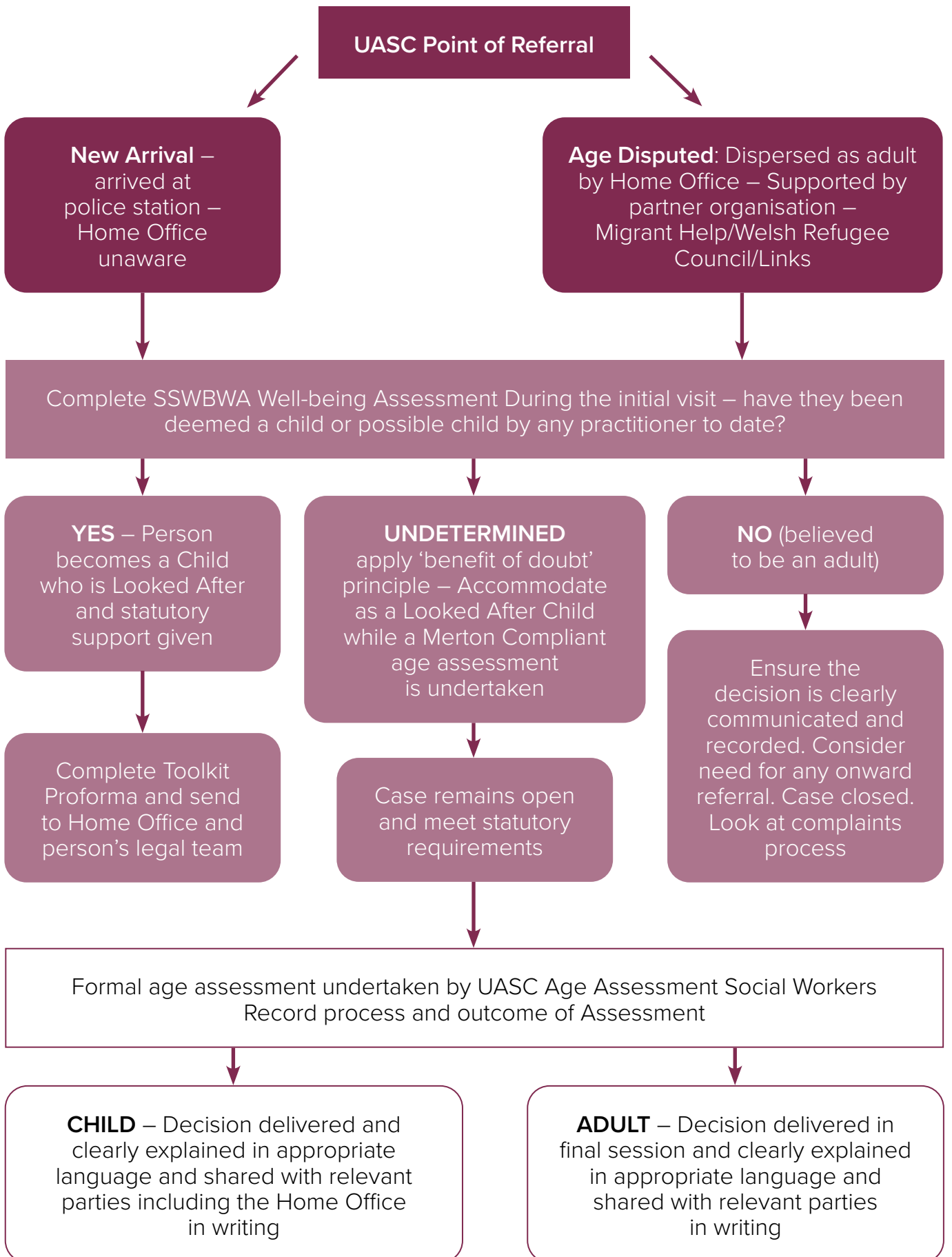
- practitioners to work together in a multi-agency age assessment process and approach assessment actions in the best interests of children/young people
- improve consistency of practice in Wales when working with child/young people who are particularly vulnerable
- ensure appropriate actions by frontline practitioners including social workers, the Police and UKVI prior, during and subsequent to an age assessment, in order to make informed, fair, robust and child-centred decisions on age
- enable local authorities to develop expertise in 'Merton compliant' and lawful decisions and thus reduce the burden of reproach and legal action.

A person-centred approach to age assessment

A decision to consider age under Part 3 SSWBA and/or to undertake a full 'Merton compliant' age assessment may arise in a number of ways. The child/young person:

- may attend a Police station following a lorry drop
- may walk in to a local authority social services office
- the UKVI may make a referral
- may arrive via the National Transfer Scheme for UASC or another Government scheme
- may, as a detainee held in a detention centre, claim to be a child/young person
- a court may make a request or a set down a direction
- may be referred by an individual or an agency
- when new information is received on someone accommodated as a child, or
- when new information is received on someone previously assessed to be an adult.

The flow chart below sets out a pathway from first contact to assessment of need and provision of care and support. At every stage in the flowchart, it must be understood there can be various different scenarios such as the emergence of new evidence, legal advice, advocacy referrals, actions taken by other local authorities, notifying the Home Office of decisions made at various stages, appeals and so on.



Circumstances affecting the need for a formal age assessment

Statutory guidance on the care of children/young people issued by the Department of Education (England)¹⁴ which states that “Age assessments should not be a routine part of a local authority’s assessment of unaccompanied or trafficked children” is a view this Toolkit supports. **In this regard, social workers should be aware that before UKVI will treat a child/young person as a child in the immigration process, it may request an age assessment from social services:**

- where social services determine that a full age assessment is not necessary, the local authority should refuse the UKVI request
- where an age assessment is acceded to it should be conducted to the extent which is sufficient to satisfy the UKVI without requiring the child to go through what can be a repetitive and distressing process
- it may be possible to use information already gathered by the ‘what matters’ assessment rather than conducting further ‘Merton compliant’ interviews.

Children/young people **should not** be routinely exposed to a full age assessment process:

- unless the child/young person’s stated age is disputed (this could be by UKVI, the Police or another agency in contact with the child/young person) or
- their appearance or demeanour suggests that they are significantly younger or older than they claim to be and there is no documentary evidence of their age.

Where it is accepted that the unaccompanied asylum-seeking individual is a child/young person but there is doubt about the exact age, an age assessment may be helpful in ensuring that appropriate services are provided. But it is rare for significant and conclusive information to follow. **Any age assessment should be limited to the minimum necessary to ensure the child/young person is receiving the appropriate services, educational and other support.**

A fair, holistic, reliable and timely age assessment that limits uncertainty and stress is in the best interests of the child/young person. Its pace should be guided by the young person and while it does not need to be completed within a set number of days the local authority should be mindful that the Home Office will fund the accommodation of the young person (which should be provided by during the process) for 28 days only.

There is no burden of proof on the child/young person to ‘prove’ their age in either the ‘what matters’ SSWBA Part 3 Assessing Needs process or the full ‘Merton compliant’ age assessment process.

Summarised below, with further information referenced, are several issues and actions for social workers and all practitioners to consider when encountering an unaccompanied asylum-seeking child/young person.

‘Benefit of the doubt’ principle

It is well recognised that age assessment is not a scientific process. Hence, the benefit of the doubt should always be given to the child/young person and questions put in an open-minded way to explore any doubts.

¹⁴ www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children

In particular, **a young person who may be aged between 18 and 21 should be treated as a child and accommodated as a child while a full ‘Merton compliant’ age assessment is undertaken.**

- “Those whose ages are disputed should be given the benefit of the doubt unless there are compelling factors to the contrary”¹⁵.
- “The benefit of any doubt should always be given to the unaccompanied asylum-seeking child since it is recognised that age assessment is not a scientific process” (A v Croydon¹⁶)
- “Assuming its inquisitorial fact-finding role in an age dispute, the Court should further afford the disputed child the benefit of the doubt both at the start and the end of the process. This is not the same as imposing a burden of proof on either party” (A v Camden¹⁷).

If a local authority assesses the young person to be 18 rather than 17, it will need to provide strong supporting evidence that the young person is 18 to avoid legal challenges.

Referrals for age assessments

A child/young person can become known to a local authority or other agency:

- as a **new arrival** (unlikely to be known to the Home Office or other UK local authority). All practitioners who encounter such children/young people who claim to be under 18, must make an immediate referral to social services for support and safeguarding

- as a **referral by UKVI** where it has evidence or suspects a child/young person to be under 18, with a request to make an age assessment
- as a **case that has already been age disputed** (likely known to UKVI and/or other local authorities).

Organisations such as Migrant Help¹⁸ and TGP Cymru¹⁹ are likely to refer such ‘known’ cases in respect of whom some determination of age may be available but not necessarily a full age assessment by another local authority.

The role of the Police

With regard to children/young people and their interaction with the Police, social workers should be aware that:

- a child/young person should not be charged with a criminal offence before the dispute over his age is resolved^{20 21}
- Police are subject to a duty to safeguard and promote the welfare of children²², thus where there is doubt about age, the Police have the power to refer a child/young person to the local authority for a decision about whether to carry out an age assessment
- a police constable is able to take fingerprints on behalf of UKVI²³. No minimum age is stated in the legislation but UKVI policy is to take fingerprints of only those who are 5 years of age and over.

15 <https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-446>

16 www.supremecourt.uk/cases/uksc-2009-0106.html

17 www.casemine.com/judgement/uk/5a8ff7df60d03e7f57eb291d

18 www.migranthehelpuk.org/regional-services-wales

19 www.tgpcymru.org.uk/what-we-do/young-asylum-seekers-and-refugees-programme/

20 www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/50

21 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826813/PACE-Code-C_2019.pdf

22 www.legislation.gov.uk/ukpga/2009/11/section/55

23 www.legislation.gov.uk/ukpga/1999/33/section/141

While the primary responsibility for recording biometric data (fingerprints and photographs) of new arrivals rests with Immigration Enforcement, the Police also have responsibility. The Police, local authorities and UKVI should liaise at the earliest opportunity to record biographical details and biometric data of the newly arrived child/young person.

Where Immigration Enforcement is unable to attend, the Police should take and record biographical details and biometric data before arrangements are made to release the child/young person to the care of the children's social services. The early capture of biometric data and other biographical details (whether or not a decision to prosecute follows) brings benefits to all agencies:

- if children/young people go missing, checks can be made if the individual presents elsewhere
- it gives the opportunity to determine any previous contact with the UKVI, the Police or children's social services, and
- enables agencies to trace and safeguard vulnerable individuals who may go missing.

Social workers should note that where the Police are the first point of contact with a child/young person and where the individual has been identified as having entered or remained in the UK unlawfully, the Police will make an arrest for suspected entry without leave²⁴ and take the person into custody. Any child under 10 years entering the UK without permission cannot be arrested or held in police detention and officers should ensure that the welfare of the child is maintained.

The detention of an individual, within the PACE holding time frame of 24 hours allows the Police to take and record biographical and biometric details where a child is over the age of 10 and if consent is given by a social worker or an Appropriate Adult.

There are additional rights for children²⁵ which social workers should note:

- the identity of the person who is responsible for the child/young person's welfare should be ascertained as soon as is practicable
- traffickers will make strenuous attempts to 'recover' child victims of trafficking from the Police or the care and protection of social services, and
- extreme care should be taken in identifying the persons who claim to have responsibility for the child/young person. In this context, the Police are National Referral Mechanism First Responders and will work with Barnardo's as providers of advocacy for trafficked children.

Social workers will also wish to familiarise themselves with Operation Innerste²⁶ which is a Police-led multiagency response to safeguarding unaccompanied asylum seeking children in the context of trafficking and going missing. The Operation Innerste framework is built around treating young people as victims, not suspects with welfare and protection as the driving themes.

24 www.legislation.gov.uk/ukpga/1971/77/section/24

25 www.legislation.gov.uk/ukpga/1984/60/section/57/1998-08-07

26 www.proceduresonline.com > uploaded_files

The role of Immigration Enforcement/UKVI

Where a child/young person (or an individual thought to be a child/young person) has been identified as having entered the UK unlawfully, Immigration Enforcement will endeavour to attend the individual in police custody during the 24 hours holding time frame for the purposes of capturing the individual's biometric data. Social workers should note here that:

- Immigration Enforcement does not fingerprint children under 5
- children aged between 5 and 16 can only be fingerprinted in the presence of an adult who is the child's parent or guardian, or a person who for the time being takes responsibility for the child such as an Appropriate Adult
- although children aged 16 and 17 can be fingerprinted without the presence of an Appropriate Adult, it is good practice and in the best interests of a child that the presence of an Appropriate Adult is offered
- UKVI policy states: *'Whilst a child between 16-18 years of age can be fingerprinted without the presence of an adult, if that child is vulnerable as defined in this guidance, they must not be fingerprinted unless accompanied by an adult.'*
- 'vulnerability' is defined as an individual *'who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation'*
- where a child/young person is a potential victim of trafficking, they will therefore require an Appropriate Adult

- where the individual is thought to be a child during the age assessment process, they should be accompanied to Immigration Enforcement appointments by a social worker or other member of local authority staff or an Appropriate Adult.

Establishing immigration status

Where a child/young person presents as a new arrival or as an age-disputed case, social services should contact UKVI at the earliest opportunity to establish whether they are known to UKVI and if so, to request their details and biometric data. Checks need to establish whether the child/young person

- has immigration status
- an asylum claim has been made
- has a legal representative
- were accompanied when they arrived in the UK

The relevant telephone numbers are: 02081964524 (Asylum Screening Appointments Team) or 03001232235 (the Asylum Support Team).

When a decision is made to accommodate and whether or not a 'Merton compliant' age assessment is deemed necessary:

- practical support should be provided to the child/young person to guide them through their asylum claim
- specific support in respect of ethnicity, language, religious beliefs, cultural norms and social opportunities will be relevant in ensuring that needs are met in line with the duties to consider these factors as set out in the SSWBA
- legal representation should be identified to inform the child/young person of the asylum process, share relevant resources with them^{27 28} and prepare them for every possible outcome of their asylum claim

27 <https://gov.wales/unaccompanied-asylum-seeking-children-guidance> – specific to Wales

28 <https://youngasylumguide.org.uk/>

It is vitally important that the child/young person understands the asylum process. Social workers should possess sufficient knowledge of it or have ready access to practitioners with the required knowledge.

The child/young person should also be referred to legal representation at the earliest opportunity^{29 30}.

Accommodation provision during the age assessment process

A child/young person should be offered accommodation under Section 76 of the SSWBA pending a full assessment of need. Considerations will include:

- safeguarding issues within the first 24 hours in relation to the choice of placement
- when arranging accommodation, careful consideration should be given to the possibility that the child/young person could be an adult or younger than they have claimed
- bed and breakfast or other adult accommodation is not suitable for children/young people.
- the child/young person should be made “Looked After” and
- a legal representative identified to explain the asylum process. The local authority’s role in this is only to assist accessing appropriate legal representation for an asylum claim.

Where there are doubts about age necessitating a Merton compliant age assessment, it may be appropriate to commission specific accommodation for the child/young person in need of care and support and to engage colleagues in Housing Services at an early stage.

29 www.childrenslegalcentre.com/resources/getting-legal-representation/

30 www.newport.gov.uk/documents/About-Newport/Immigration-Solicitors.pdf list of immigration solicitors in Wales, January 2021

Section 4: Support for children/young people around the age assessment process

Safeguarding, trafficking and missing children

Child Trafficking and Modern Slavery is the recruitment, transportation, transfer, harbouring or receipt of a child under the age of 18 years of age for the purpose or intended purpose of sexual or criminal exploitation such as forced labour, domestic servitude and organ harvesting.

Social workers, who have an important role to play in ensuring the safety of trafficked children/young people, should note that:

- an increasing number of children have been identified as potential victims of trafficking, who
- may have entered the UK with a trafficker who may or may not be a family member, and
- under the control of a trafficker, may say they are unaccompanied having been told by the trafficker that by doing so when they will be granted permission to enter the UK.

Further information on indicators of trafficking and exploitation can be found within the All Wales Safeguarding Children who may be Trafficked Practice Guide³¹. This together with the Wales Safeguarding Procedures should assist social workers in initiating a child protection enquiry in respect of any child/young person believed to be at risk.

Children who have been trafficked into or within the UK are likely to have had experiences which impact on their ability to participate fully and openly in an age assessment. In addition to any physical, sexual or emotional abuse they may have suffered:

- many trafficked children have been forced by their traffickers to learn a coached story to tell practitioners if they are questioned
- many children are under direct threat themselves, or have family members elsewhere who may be under threat (or perceived threat) and
- many children may have been provided with documents as an attempt to minimise professional curiosity. All documents should be checked for authenticity with the relevant issuing department.

Where there are concerns that a child/young person may have been trafficked either into or within the UK, First Responders including statutory agencies such as local authorities, Police, UKVI and Third Sector agencies such as Barnardo's, New Pathways, BAWSO and the Salvation Army, have a responsibility to complete a National Referral Mechanism (NRM) form.

As First Responders, social workers should:

- complete the online Duty to Notify form, used throughout the UK for adults and children, and be aware that
- in the case of children under the age of 18, consent is not required for a referral to be made.

The form³² has been designed to be responsive and will identify the First Responder by their work email address. This verification will need to be completed to progress with the form.

Once the digitised NRM form has been submitted online to the Single Competent Authority (SCA) a link will be sent to download a copy. The SCA will email an assigned reference number to the practitioner lodging the NRM.

31 www.safeguarding.wales/chi/c6/c6.p3.html

32 www.modernslavery.gov.uk/start

If there is further information at a later date that would be helpful in deciding whether the person is a victim of modern slavery, it can be emailed to the responsible practitioner³³ with the reference number in the subject line. The same email address can be used to check if an NRM has previously been submitted for a child/young person.

Furthermore, social workers should be aware of the Independent Child Trafficking Guardians (ICTGs) outlined in Section 48 of the Modern Slavery Act 2015 as practitioners who support children who have been potentially trafficked into and within the UK and should note that all children identified as potentially trafficked must be referred to the Independent Child Trafficking Guardianship Service³⁴ Section 51 of the Modern Slavery Act 2015 puts on a statutory footing the presumption that:

- where there are reasonable grounds to believe a person is a victim of modern slavery and has reasonable grounds to believe that the person may be under 18, they are to be treated as being under 18 years of age for the purposes of care, support and accommodation under the Modern Slavery Act 2015 until an age assessment is carried out by a local authority or the person's age is otherwise determined
- where an age assessment is being undertaken, the child who has been trafficked will remain entitled to the ICTG Service under the 2015 Act as they are presumed to be a child until the definitive assessment is received
- in the event of a challenge to the age assessment decision, such as Judicial Review, the child would continue to receive the support of an ICTG Service until a final determination has been made.

If the age assessment Judicial Review declares that the individual is over 18, then the individual ceases to be entitled to the ICTG Service and the ICTG Service should refer the individual to existing mainstream adult provision as soon as possible from the final decision date.

Further information on the ICTG Service, Section 48 guidance and referral forms is available³⁵.

Making a timely referral after identification could be very helpful in reducing missing episodes, re-trafficking and further abuse. It is recommended that a photograph is taken of the child/young person within the first 24 hours of encountering them. Securing consent to be photographed should be enabled by an explanation of why the photograph is necessary: that it is in their best interests in relation to their safeguarding and protection. A photograph will help the Police with their investigations should the child/young person subsequently go missing. If consent is refused by a child/young person, legal advice should be sought, and enquiries made of the UKVI and Police who may have a recent photograph.

Engaging an Appropriate Adult

When a child/young person is undergoing an age assessment, case law has determined that they must be afforded the opportunity to have an Appropriate Adult present at the age assessment interview(s). The overarching role of the Appropriate Adult is to ensure that the age assessment is conducted fairly and adheres to the legislative framework. More specifically their role is to:

- ensure that the child understands what is happening to them and why

33 nationalreferralmechanism@homeoffice.gov.uk

34 Tel: 0800 0434303 or CounterTrafficking@Barnardos.org.uk Secure email trafficking.referrals@bypmk.cjsm

35 www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites

- support and advise the child/young person, including asking for breaks if the child/young person needs a break to consult with the Appropriate Adult, to seek legal advice from their legal representative, or if the child is tired, distressed or ill
- observe whether the social workers are acting properly and fairly, and intervene where appropriate
- assist with communication between the child and the social workers in a constructive and appropriate manner
- ensure that the child understands their rights, including the right to seek legal advice before continuing further with the interview.

The Appropriate Adult should be independent of the local authority and:

- they must be suitably trained
- have the necessary knowledge and skills and
- the confidence to intervene and challenge
- they must employ a non-judgmental rights-based approach and
- be able to exercise objectivity.

In order to comply with legal requirements, some local authorities in Wales choose to commission children's advocacy providers to deliver this service, either as part of their children's statutory advocacy service or on a spot-purchased basis.

Key considerations for social workers/local authorities when engaging an Appropriate Adult:

- to provide information to the child prior to the full age assessment which explains the role of the Appropriate Adult, including any written information on the role
- to secure an Appropriate Adult/make a referral in a timely manner so that there is no delay
- to consider the suitability of the Appropriate Adult and to establish that they have the necessary knowledge and skills
- to be satisfied that the Appropriate Adult is independent of the local authority and

- to be satisfied that they are not involved in the age assessment process itself including expressing any view on the age of the child
- to use the same Appropriate Adult with all the interviews undertaken with the child, unless the child requests a different Appropriate Adult
- where the child refuses to have an Appropriate Adult, the social worker should explore reasons why and record the refusal along with the reasons given
- it will rarely be appropriate for the social worker to agree that the child/young person decide who shall act as Appropriate Adult, as they may have been instructed by their smuggler or trafficker to ask that they act in this role
- the Appropriate Adult should attend all interviews with the child including the final meeting to communicate the outcome of the age assessment process
- social workers should ensure the Appropriate Adult, child and any interpreter are able to meet privately prior to the age assessment interviews without social services being present
- social workers should ensure that regular breaks are offered and that space is available for the Appropriate Adult and interpreter to speak to the child in private
- the Appropriate Adult should be permitted to take notes during the age assessment. With the consent of the child, a copy of the notes can be given to the social worker
- the Appropriate Adult should have the opportunity to meet privately with the child directly after the interview so a debrief session can take place with the child and interpreter
- the local authority should provide the Appropriate Adult with a full copy of the age assessment where the child consents
- practitioners should ensure that the child/young person has an Appropriate Adult to accompany them to UKVI asylum interviews, and to act in the child/young person's best interest during the interview.

Rights to advocacy and engaging services

“Advocacy is about: speaking up for children and young people, empowering children and young people to make sure their rights are respected and their views, wishes and feelings are heard at all times; representing the views, wishes and feelings of children and young people to decision-makers, and helping them to navigate the system.”³⁶

While all professionals working with unaccompanied asylum-seeking children and young people have a continuing duty to remind them of their rights to advocacy and to facilitate their access to advocacy services when needed, the SSWBA imposes a specific duty requiring those exercising any function under the Act to have due regard to the UNCRC including Article 12 which affords children with the right to be listened to and participate in decisions affecting them.

Section 78 SSWBA also specifies that before making any decision with respect to a looked after child, or a child the local authority proposes to look after that the local authority must have regard to the views, wishes and feelings of the child/young person and any other relevant person.

Unaccompanied asylum-seeking children and young people are particularly vulnerable and may feel inhibited in engaging with services for a number of reasons including:

- fear of an unknown country and culture
- little or no other support networks in the UK (family or friends)
- negative experiences with authority figures in their home country
- language and cultural barriers.

Consequently, children/young people often need someone who can support them, be ‘on their side’ and work with them to deal with barriers to care and support, education, social activities and employment. They also may need someone to ensure they have access to quality legal advice and representation and support their interaction with solicitors.

Social workers need to understand the role of advocacy in helping children/young people access their rights and entitlements, convey their wishes and feelings, ensure their voice is heard in decision-making processes and help resolve issues at the earliest possible stage.

Advocacy practice is governed by the National Advocacy Standards and Outcomes Framework. Led by the child/young person, independent advocates’ role (as agreed with the child/young person) is to provide support in identifying appropriate help which may involve speaking and negotiating with professionals including representation at meetings and other decision-making forums and assisting in making to a complaint where informal resolution methods are not successful. Advocacy services must ensure that the cultural, religious and linguistic needs of a child/young person are respected and provide interpretation services where necessary.

Independent professional statutory advocacy operates within the legislative framework of the SSWBA and is not intended to replace other forms of advocacy intervention. An Independent Professional Statutory Advocate has a specific role and function which is their only role in a child or young persons’ life. They focus solely on maximising a child or young person’s voice, involvement, control of their own life and rights.

³⁶ The Independent Professional Advocacy National Standards and Outcomes Framework for Children and Young People in Wales <https://gov.wales/advocacy-standards-and-outcomes-framework-children-and-young-people>

The National Approach to Statutory Independent Professional Advocacy for Looked After Children, Children in Need and Other Specified Individuals, (NASA) also provides a framework for the delivery of children's advocacy services within Wales. A key component of this framework is the 'Active Offer of Advocacy' which:

- requires local authorities to work closely with their commissioned advocacy provider
- to ensure that all children and young people who enter either the looked after or child protection system
- are offered the opportunity to have a face to face meeting with an independent advocate ('active offer meeting'), in order to fully inform children and young people of their rights and entitlements including their right to make a complaint against the local authority, and
- to ensure they are provided with information, advice and assistance on the role of independent advocacy.

Additionally, social workers should take note that in the provision of active offer advocacy:

- children/young people who are accommodated under Section 76 SSWBA and are subject to age assessment have the same rights and entitlements as all looked after children, and must be offered active advocacy at the point they become accommodated: their access to an active offer of advocacy should not be delayed pending the outcome of the age assessment
- active offer advocacy can still be provided to children/young people who are not looked after but who may have needs for care and support in line with the Code of Practice '*a child who is not being looked after but may have needs for care and support.*'

- where an age assessment determines a young person an adult thus losing eligibility for children's advocacy services, as part of the active offer, the children's advocate must advise the young person of their rights to any adult advocacy provision and the social worker should make a referral to adult advocacy provision when needed, including when the young person wishes to challenge the outcome of the age assessment.

Children/young people in Wales do not currently have a system of Guardianship or the support of the Refugee Children Panel. It is essential then, if the child/young person is to be afforded the same UNCRC rights as other looked after children in Wales, the social worker makes a referral to advocacy services and, the advocate uses interpretation services, if the child/young person requires them. For statutory advocacy services in Wales, see NYAS³⁷.

Advocacy for age disputed cases

TGP Cymru provide support to children/young people in age disputed cases where the young person is assessed as being over 18. They support children/young people not receiving statutory advocacy services, asylum seekers aged 15-23 with specific issues about education and asylum seekers under 25 with multiple issues.

Age disputes and scenarios

There are several risks which may follow when the age of a child/young person is initially or subsequently assessed as being over 18 including:

- denying the individual access to statutory public services to which a child is entitled
- disrupting the age assessment process by accommodating the individual with adults in UKVI initial accommodation which may be in another part of Wales or UK

37 www.nyas.net/nyas-cymru/

- safeguarding risks if there are no systems in place to monitor safety or protection while placed in UKVI initial accommodation for adults
- safeguarding risks to the foster family where the individual is placed where that family also cares for children under 18
- safeguarding risks in relation to the school environment where the individual is studying.

In doubtful or borderline cases, the benefit of the doubt should be applied. However, it is strongly recommended that the young person should not be placed with a foster family where children under 18 are also accommodated while the age assessment process is underway. Consideration should be given in such circumstances to commissioning bespoke supported/independent living accommodation.

Because of these risks, age dispute referrals to children's social services must be dealt with in a timely manner. The longer a child/young person is living in adult accommodation or an adult is accommodated as a child, the greater the risks to all involved, including the potential for Judicial Review.

Once the local authority becomes responsible for an age assessment, social workers must be aware of the need to liaise with relevant agencies. In particular, local authorities should work closely with the UKVI in authenticating documents held by the child/young person, but this should not delay the age assessment process as there are no guarantees that identification documents will be authenticated. Other documentation such as Court adjudications and medical records (if provided by the child/young person via their legal representative) may also assist decision-making on age assessment and their issuing agencies should be contacted.

The Police and/or UKVI should refer to the local authority for an age assessment. It is the local authority's responsibility to assess the risk to the child/young person and conduct an initial

well-being assessment ('what matters' under Part 3 SSWBA) and consider the need for a subsequent Merton compliant age assessment.

As part of a holistic process and in order to gain as much information as possible about the child/young person, the local authority must make enquiries with UKVI. However where there is doubt about the young person's age, the local authority must not rely on the age decided by UKVI, because the local authority is obliged to conduct its own age assessment and the duty to determine an entitlement to care and support (under Part 4 SSWBA).

Local authorities should note that there is no obligation to undertake an age assessment on behalf of the UKVI where there is no referral of the child/young person for local authority social care, for example to decide whether to treat the individual as an adult in the asylum process.

An individual claiming to be child

Where there is no reliable documentary evidence to support a claimed age and UKVI decide that the appearance and/or general demeanour of the child/young person **very strongly suggests they are over 25**, following a visual assessment by a Chief Immigration Officer/ Immigration Officer (countersigned by an officer of equivalent grade), the UKVI will not refer such an individual to social services but will process and treat such individuals as adults following the issuance of IS97M to inform the individual of this decision.

Where there is no reliable documentary evidence to support a claimed age and UKVI decide that the physical appearance and/or general demeanour of the child/young person **does not very strongly suggest** that the child/young person is significantly over 25 years of age, but may be 18 or over, it is regarded as an age-disputed case. In such borderline age-disputed cases, it is the policy of UKVI to give the young person the benefit of the doubt, treat them as a child and refer the child/young person to social services for an age assessment.

UKVI will accept age-disputed individuals as children when a Merton compliant process has assessed their age to be under 18, but where a Merton compliant age assessment concludes that an age disputed individual is over 18, they will be treated as an adult in the asylum process.

It is known that some adults abuse the system and claim to be under 18. Where there is agreement among the agencies involved that a young person is significantly over the age of 18:

- there is no requirement on the local authority to assess age
- in such cases a letter must be issued to the young person setting out a clear explanation of the local authority's decision as to why it believes the young person to be significantly over 18 and
- why the decision has been made not to off a Merton compliant assessment.

An individual claiming to be a child who has previously been age assessed

Where a child/young person has had an age assessment by another local authority which deemed them to be over the age of 18, they will be treated as an adult by UKVI and accommodated accordingly. On arriving in Wales, however, a local authority could receive a referral from a Third Sector organisation or a legal representative requesting an age assessment because the child/young person is believed to be under 18 or the child/young person maintains they are under 18.

In this scenario, the social worker should request a copy of the age assessment(s) from the other local authority/authorities because it has a duty to ensure that it is satisfied that any previous age assessment was conducted fairly and lawfully.

Where a local authority finds the previous age assessment is unlawful, of poor quality or not 'Merton compliant' then the local authority should satisfy itself and consider undertaking a new age assessment in order to give the child/young person the benefit of the doubt. This would include proactively seeking any new information

to support the young person's claimed age. Social workers should also consider moving the child/young person out of UKVI adult accommodation into more appropriate housing or foster care pending an age assessment and all relevant agencies should be contacted and a note made of discussion points and actions.

The child/young person is a potential victim of trafficking and there is an age dispute issue

Where there is any suspicion that an age disputed child/young person may have been trafficked or exploited a National Referral Mechanism (NRM) referral must be completed at first point of contact and immediate safeguarding actions must be taken. Carrying out an age assessment in this context must include the involvement of trafficking experts such as Barnardo's or the NSPCC Child Trafficking Advice Centre. Information bearing on the issue of age will be requested from any trafficking organisation involved with the age disputed person.

Where there are already Court proceedings

A Court may conduct a fact-finding hearing and come to its conclusion on age, or a Court may request a local authority to conduct an age assessment after an age assessment was judicially reviewed. Where there is a Court Order in place which states that a local authority must undertake an age assessment and the local authority disagrees, legal advice should be sought before challenging the Order. The only way a local authority can avoid complying with such an Order is to make an application to the Court for the Order to be varied.

Section 5: Preparing for and conducting the age assessment

Preparing for the ‘Merton compliant’ age assessment

Allocation of experienced social workers

Social workers must **adopt a person-centred approach** which ensures the child/young person understands what is in process at all times, the reasons for what is in process and what will follow. Social workers should liaise with the child’s/young person’s legal representatives, Appropriate Adults/advocates to assist in preparations for the process ahead.

A ‘Merton compliant’ age assessment must be conducted by two registered social workers

both of whom must have experience of working with children and young people and of undertaking assessments of need **with at least one of them having experience in assessing age**. One social worker may assume the lead role in planning the overall assessment and ensure that all safeguards to secure fairness and best practice are in place.

The relative infrequency with which local authorities conduct Merton compliant age assessment for a child/young person means that social workers find it difficult to develop the knowledge, expertise and experience ideally needed for the task. It is unlikely that some local authorities will be able to sustain a suitably experienced cohort of social workers, and a more collaborative approach between local authorities in conducting age assessments could provide the continuity of appropriate resources.

Where there are practical difficulties identifying and securing appropriately experienced assessors from within the local authority, independent social workers³⁸ can be commissioned to make the assessment or be part of the age assessment provided they meet the legal requirements as to registration and experience.

There may be a number of factors which may inhibit the individual who is to be age assessed from speaking freely at the assessment, and the gender of the assessors may be one such. Hence, consideration must be given to establishing any preference as to the gender of the assessors.

Where in the course of the assessment, social workers identify issues that need addressing such as mental ill health, learning difficulties, sexual abuse, modern slavery, forced marriage, debt bondage, criminal, sexual or labour exploitation and domestic servitude, they may need to consider whether to involve other practitioners with expertise in these fields to advise how to proceed *“The Court noted that in this case where the claimant was traumatised from sexual abuse, it would have been useful to have a social worker with skills and expertise in mental health because the child’s presentation obviously required real mental health expertise.”*³⁹

38 www.socialworkerswithoutborders.org/

39 R (KN) v London Borough of Barnet [2011] EWHC 2019 (Admin)
www.gov.uk/administrative-appeals-tribunal-decisions/bb-v-london-borough-of-barnet-sen-2019-ukut-285-aac

Statutory framework and timing

Age assessment is a process not an event and as such the decision can be reviewed. The allocated social workers may have to conduct several enquiries and discussions with the child/young person in order to determine age

and should be aware that the child/young person should not be subjected to a series of lengthy interviews that may cause distress.

Other considerations must include:

- the child/young person must be accommodated during the assessment process
- every decision should be made using the latest available information and opinion from all relevant agencies and evidence received subsequent to an age assessment should be given consideration as to any age-related impact with regard to care and support
- the process must be conducted in line with Parts 3 and 4 of the SSWBA and related Codes of Practice which include adhering to statutory timeframes (e.g. 42 days for completion of a comprehensive well-being assessment)
- it must be responsive to referrals and to good practice in multi-agency collaborative working
- where it is deemed necessary to assess age, the assessment should act also as a holistic assessment of need.

Multiagency working and information gathering

All agencies involved with the child/young person need to be proactive. If an agency considers, in its professional opinion, that a child/young person receiving its services could be under or over 18 years of age which is different from their claimed age, they should request that an age assessment in respect of that of a child/young person.

Practitioners of all agencies working with children must share information relevant to age assessment and safeguarding:

“Local authority professionals should be trained to play a central role but expert assistance should be welcomed as a means to ensure the process is more robust”⁴⁰.

In line with Part 9 SSWBA, recognising that age assessment is not an exact science but one best suited to a holistic multi-agency approach and in addition to interviews with the child/young person, the age assessment process requires information to be gathered in relation to the experiences and activities of the child/young person pre- and post-arrival in the UK, and collated from a variety of sources. These include support workers, health and education practitioners, advocates and foster carers.

Other agencies’ practitioners basing their professional opinion of the age of the child/young person have the advantage of working with them over a period of time and very often in a child-friendly environment. Failure to communicate with other agencies in order to have a complete picture of the child/young person, undermines their best interests and could place a child/young person at risk.

The professional opinion and evidence of Third Sector workers and other advocates will need to be able to withstand scrutiny.

They can be called to give evidence at Court. When providing a professional opinion in regard to a child/young person’s age a letter should evidence how the opinion was arrived at, and state the background of the person providing the professional opinion, noting that opinion may change over time as more time is spent with the child/young person.

On receiving written representations from other agencies relating to the age of a child/young person, the social worker must contact the agency involved to gain more details and consider whether a meeting may be necessary.

40 <https://publications.parliament.uk/pa/jt201314/jtselect/jtrights/9/907.htm>

Where the social worker decides that it is not appropriate at that time to undertake an age assessment, the agency concerned must be contacted immediately with an explanation and the social worker must give due consideration to any rebuttal or disagreement.

Medical reports

This Toolkit does not recommend or support the use of medical examinations as determinants of age. The science underpinning the determining of age is inconclusive, unclear and in any event, subjecting young people to invasive medical examinations is judged to be morally wrong. However, where a specific paediatric report is received, i.e. from a child/young person and via their legal representative:

- the social worker **must only** consider it in the context of a holistic, multi-agency age assessment
- such reports **should not** be requested by social workers **unless** specifically asked for by the child/young person and via their legal representative and
- should **never** be used in isolation in decision-making.

It is worth noting the position of the UNHCR⁴¹ that ‘medical age assessment methods remain highly contested and are subject to a high margin of error. The evidential value of such methods remains contested by UK courts and in other jurisdictions, and by medical professionals and associations. In addition to being subject to a high margin of error, medical methods used for age assessment can be potentially harmful (such as those that involve exposure to radiation through x-rays). For this reason, dental x-rays have previously been ruled out for

use in assessing age in the UK by the UK Home Office citing the British Dental Association’s views that they are *“inaccurate, inappropriate and unethical”*. The Committee on the Rights of the Child further confirmed in 2017 that *“States should refrain from using medical methods based on, inter alia, bone and dental exam analysis, which may be inaccurate, with wide margins of error, and can also be traumatic and lead to unnecessary legal processes”*.’

In addition, a number of professional health associations argue against the use of medical examinations as a means of determining age:

- The Royal College for Paediatrics and Child Health state: *“there is no single reliable method for making precise age estimates. The most appropriate approach is to use a holistic evaluation... It is therefore important for paediatricians, when contacted, to explain to social workers that dental x-rays, bone age and genital examination will currently not add any further information to the assessment process.”*⁴² The College adds *“the margin of error can sometimes be as much as five years either side with medical tests.”*
- The British Dental Association state: *“The BDA is vigorously opposed to the use of dental x-rays to determine whether asylum seekers have reached 18. This is an inaccurate method for assessing age. The BDA also believes that it is inappropriate and unethical to take radiographs of people when there is no health benefit for them. X-rays taken for a clinically-justified reason must not be used for another purpose without the patient’s informed consent, without coercion and in full knowledge of how the radiograph will be used and by whom.”*⁴³ The Great Ormond Street Institute of Child Health adds that such tests are “very inaccurate.”

41 UNHCR – UNHCR Observations on the New Plan for Immigration UK (www.unhcr.org/uk/60950ed64/unhcr-observations-on-the-new-plan-for-immigration-uk)

42 www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians#age-assessment

43 www.ein.org.uk/news/british-dental-association-says-x-rays-should-not-be-used-establish-age-young-asylum-seekers

- The British Medical Bulletin research⁴⁴ highlights that the influence of ethnicity, genetic background, nutrition, deprivation, previous and current illnesses – especially endocrine diseases – can all have profound effects on physical development, skeletal and dental maturity.

Working with interpreters

Most unaccompanied asylum-seeking children and young people will not speak English as their first language. In line with the principles of the UNCRC and for the voice of the child/young person to be fully heard, **professional interpreter services are vital in providing an impartial, complete and confidential rendition of all that is said.** The consequences of poor interpreting are a distortion of instructions and inaccuracy which may jeopardise the child/young person's asylum claim and hinder their best interests. Good quality interpretation relies on the direct interpretation of what the child/young person says. They are not to explain any of what is said.

Social workers should always use a reputable, professional interpreting agency, who have specifically trained their interpreters to work with children and evidence of this training should be sought. Social workers must:

- meet with interpreters prior to interview(s) and explain the aim and purpose of the process
- check that the child/young person is comfortable with interpreter, i.e. if a young person prefers a male or female interpreter
- check that the language/dialect is understood by both interpreter and child/young person
- inform the child/young person and Appropriate Adult/advocate that a 'sign' can be mutually agreed to be used during the assessment to indicate that the young person is not happy with interpreter
- instruct the interpreter that only direct interpretation is required

- **not** use a telephone interpreter
- retain the same interpreter for all appointments: where both the social worker and the child/young person are satisfied with the interpreter, then it is good practice to use the same interpreter for any follow up interviews. This allows the child/young person to feel more at ease with the interpreter and consequently more able to disclose their experiences.

Practice points to note:

Never use friends or family members to interpret: they are **not** professionals in the field of interpreting and it increases the scopes for mistakes and misinterpretation. There may also be safeguarding issues.

Children/young people may feel uncertain in disclosing certain matters pertinent to their age assessment owing to embarrassment or fear of loss of ties with their communities as a consequence of information they disclose.

Certain cultural norms may make it taboo to talk about certain matters to those considered outsiders. It is the role of social workers to ensure that they provide all the necessary tools and arrangements to enable the child/young person to speak freely without fear, embarrassment or hindrance about the consequences of what they might disclose.

Ask the questions in the first person and talk as one would with an English speaker: The social worker must conduct the age assessment by asking questions directly to the child/young person in the first person. For example: 'Can you remember your birthday?', rather than asking questions of the interpreter such as 'can you ask him if he remembers his birthday?' This is to ensure that the child/young person (non-English speaker) and the social worker (English speaker) are placed on an equal footing.

44 <https://academic.oup.com/bmb/article/102/1/17/312555>

Remain vigilant to any changes in the interpreter's voice or body language:

Any modulation in the interpreter's voice can sometimes be a sign of a reproaching or disbelieving attitude on the part of the interpreter. Also remain aware of the non-verbal indicators such as body language and facial expressions.

Stress to the child/young person the importance of ensuring that they are comfortable with the interpreter: Keep in mind that children/young people are less likely than adults to report any difficulties or uneasiness felt with the interpreter. If the child/young person seems uncomfortable with an interpreter, emphasise that the social worker can book a different interpreter so that they feel at ease. It is only then that the age assessment should proceed.

If required, terminate the appointment and re-arrange a further appointment within a short time period with a different interpreter, informing the child/young person and the Appropriate Adult of the reason for the postponement.

Scheduling time for the age assessment and follow up

Social workers should:

- schedule time for all aspects of the process to enable it to be completed promptly
- including time for pre-assessment work, assessment interview(s), drafting, discussing and finalising the report.

The child/young person must:

- have sufficient time to recover from their journey to the UK, and
- it should be established that the child/young person is not tired or hungry
- whether the child/young person is fasting needs to be considered in planning when the assessment interview(s) take place.

Recording the interview(s)

An age assessment should be as full and comprehensive as possible and conducted in a clear, transparent and fair manner. **Good record keeping is an essential component of the process.** Considerations must include:

- a plan should be in place as to how the interview(s) will be recorded
- dependent upon the facilities and resources available, consideration could be given to taping, digitally recording or videoing the interview(s)
- any impact on the child/young person's ability to participate fully will need to be considered
- written notes must be taken if the interview is not recorded by other means.

The assessing social worker taking hand-written notes will:

- need to engage with the child/young person and observe non-verbal cues
- written notes (if taken) need not be verbatim but need to cover all significant points
- legible scanned copies of the written notes are acceptable for Court where required
- where written notes are subsequently typed, the original hand-written notes need to be retained on the child/young person's case record.

Presenting new evidence

Where there is new information/evidence bearing on the question of age and the child/young person wishes to present new evidence to the local authority, professional opinions from anyone supporting the young person should be sought and. The local authority should consider it alongside all other sources of information available and it should trigger a new assessment.

Professional opinions and other forms of evidence are an important component of a multi-agency, holistic age assessment and practitioners from other agencies may have had a lot of contact with the child/young person, whereas the local authority carrying out the original age assessment may have based their decision on one meeting.

Analysis and decision making

Provided the interview has been well planned in line with the advice contained in this Toolkit, a good professional and evidential judgement of age should be possible. The age assessment should be a careful and balanced consideration of various factors including:

- cultural background, relevant country of origin information, social factors, demeanour, understanding and vulnerability as well as physical appearance
- an age assessment should be a reflective practice where agency and individual initial assumptions are questioned and critically evaluated, based on a holistic assessment of all contributing factors
- an age assessment may be challenged in Court and social workers will be expected to evidence any conclusions they draw.

The analysis needs to demonstrate that all of the information gathered has been considered and fully integrated in to a report before making a clear professional judgement.

Actions checklist prior to undertaking a formal age assessment

The checklist below should be read by social workers prior to conducting each and every age assessment and alongside this checklist, social workers are recommended also to read the *AB v Kent County Council* [2020] EWHC 109 (Admin) Judges summary at Annex 6.

- **two registered social workers should be present.** One should be trained in and have experience in conducting age assessments

- **confirm** there is a rational basis for the age assessment
- **decide who is going to ask the questions and who will record.** Where an age assessment is challenged at Judicial Review, detailed verbatim notes of the assessment, giving reasons for decisions made, will lend credibility to the local authority's case (Merton requirement)
- **contact UKVI for information** about the child/young person, any documentation, where they have been living, do they know of any previous age assessment?
- **familiarise** yourself with the Age Assessment Proforma (see Annexes)
- **arrange an interpreter** and take care to ensure it's the right interpreter for the child/young person and situation, i.e. the interpreter must be the gender the child/young person chooses and speaks same the dialect of the language that the child/young person speaks. A telephone interpreter must be avoided
- **arrange an Appropriate Adult/Advocate** to accompany the child/young person to their solicitor
- **arrange for an Appropriate Adult/Advocate to be present** for the age assessment interview
- **before the interview, provide the child/young person with relevant information** (see paragraph at **B** below). Use the interpreter to help with this
- **timing/venue:** age assessments can be lengthy and require a lot of concentration. Plan the length of the session to be around two hours and break for refreshments half way through. The room also needs to be large enough to comfortably sit up to five people for two hours (the child/young person, two social workers, interpreter, Appropriate Adult/Advocate)
- **in preparation** – gather and explore information from other agencies/practitioners from health, education, foster carers, Advocates, support workers and social media

(recognising that such information may not always be accurate and that adverse findings must be put to the child/young person)

- **check for any new case law developments** – Coram Children’s Legal Centre⁴⁵, the Right to Remain Toolkit⁴⁶ and Free Movement⁴⁷ are good sources of this information.
Local authorities may wish to identify and designate a lawyer to keep up to date with case law developments and share these with social workers
- **country of origin:** have a basic knowledge of the ethnic, cultural and religious practices that operate in the child/young person’s country of origin. It establishes a rapport and aids your decision making. However, avoid drawing any firm conclusions from your ‘research’ as there can be significant differences in people’s experiences within the same region i.e. whether they come from a rural or urban background, their social class etc. See Human Rights Watch⁴⁸, Ref World⁴⁹ and the Home Office⁵⁰ for regularly updated country and cultural information from around the world
- **the child/young person should be informed about the purpose of the assessment.**
Often age assessments are done in the context of a well-being (‘what matters’) assessment. In principle, using this assessment process is not problematic but the child/young person must be told that the assessment is being done for the primary purpose of assessing age because there is doubt (see Annex 1c for ‘model purpose of interview statement’)

- **check understanding about the purpose, process and consequences.** The child/young person should be informed that the consequence of the assessment decision is not only for determination of services by the local authority. The age assessment will **not** be relied on by UKVI for the determination of the asylum claim but will inform UKVI of the appropriate procedure for determination of the asylum claim, or the approach to the claim
- **duty to give reasons:** tell the child/young person that the decision will be based on firm grounds and reasons for the decision will be evidence based, fully set out, and explained to the child/young person. Check that the information gathered in the course of the assessment actually backs up the conclusion on age reached by the assessors
- **procedural fairness:** the child/young person should be informed that they will be given a fair and proper opportunity to deal with important points adverse to their age case which may weigh against them (FZ v Croydon⁵¹). There is no prescriptive way in which the disputed child/young person should be given an opportunity to respond/rebut/clarify information
- **burden of proof at assessment stage:** as affirmed by Merton and FZ, the disputed child/young person is not to be put in a position where they have to prove their age. **The assessment should be a process by which together, the assessors and the child/young person explore the necessary information to establish age**

45 www.childrenslegalcentre.com/get-legal-advice/

46 <https://righttoremain.org.uk/toolkit/>

47 www.freemovement.org.uk/

48 www.hrw.org

49 www.refworld.org/type,COUNTRYREP,,,,,0.html

50 www.gov.uk/government/collections/country-policy-and-information-notes

51 www.gardencourtchambers.co.uk/news/social-welfare-updates/r-fz-v-london-borough-of-croydon-2011-ewca-civ-59-court-of-appeal-guidelines-on-correct-test-at-permission-stage-in-an-age-dispute-case

- **physical appearance.** An assessing social worker is not entitled to simply look at a child/young person, determine they look 18 years old and therefore conclude no assessment of age is required, particularly where the child/young person is claiming to be a child (A & WK⁵²)
- **demeanour** is **not** determinative of age. Demeanour can only be relevant in the totality of the evidence before the assessors
- **Adverse Childhood Experiences and trauma:** Consider the effect of their experiences on memory. Many social workers will not be able to diagnose physical, mental or emotional health difficulties or learning difficulties, or the effects of trauma, but should be alert to the fact that the child/young person in front of them has by definition undergone experiences which are likely to have a serious impact on their development and on their ability to clearly answer all questions put to them.

Actions checklist in conducting the formal age assessment

Introductions

- introduce yourself to the interpreter so that she/he can facilitate introductions with the child/young person
- introduce yourself and your colleague and attempt to put the child/young person at their ease; only move on to 'formal introductions' when everyone has had a few minutes to settle
- remember to look at the child/young person when you are asking questions, not the interpreter
- check with the child/young person that they are feeling well and alert and are willing to continue and do not proceed if the child/young person presents as obviously tired or unwell.

Ask the interpreter to explain their role to the child/young person ensuring that the following points are included:

- their role is to interpret the social worker's questions and child/young person's answers
- the interpreter will not answer questions on behalf of the child/young person or add anything to what they have said
- when, at any time, the child/young person does not understand what is being said, they can and should say so, and the social worker will find another way in which to ask the question
- explain that they can ask for a break at any time and that you will also stop for a break in an hour
- confirm that the child/young person is comfortable with the interpreter and understands what is being said
- ensure the opportunity for any inconsistencies to be properly put to the child/young person and the child/young person is given the opportunity to explain them before a conclusion is reached
- confirm that the child/young person is happy or not with the gender of the interpreter.

Introduce the Appropriate Adult and ask the interpreter to explain their role, as follows:

- to ensure that the child/young person understands what is happening to them and why
- to support, advise and assist them, including asking for breaks in the interview to consult with them
- to observe whether social services are acting fairly and properly and intervene if they are not
- to assist with communication between them and the social worker assessors
- to ensure that the child/young person understands their legal rights, including the right to seek legal advice at any point.

52 www.familylawweek.co.uk/site.aspx?i=ed35432

Explain the social work role:

- from the outset, explain your role in such a manner that the child/young person clearly understands what you do and why you are assessing them
- acknowledge at the outset that the child/young person may have been asked lots of different questions by lots of different 'officials' and thank them for participating
- bear in mind that the child/young person might well have been advised not to talk about details of their family or journey to the UK, so you will need to reassure them that it is safe for them to talk to you
- remember to engage with the child/young person and establish as much rapport as the situation allows. Talking about and recalling events can be very distressing and it's important to respond to any distress sensitively. If a child/young person is clearly distressed, stop the assessment for a few minutes or adjourn and re-book if necessary.

The pace should be led by the child/young person.

An explanation of your role and responsibilities will need to include:

- an explanation of social services legal duty under the SSWBA to undertake an assessment of all children and young people in need in the area, including unaccompanied children
- an outline of the range of services that social services can provide to children and young people i.e. foster care, supported lodgings, support with education, health, social connections, etc
- reassurance that social services (and you) are separate from the immigration authorities, the Police and UKVI and that you will not share their full age assessment document with any other agency
- explain that whilst an assessment of their 'needs' will be an integral part of the assessment, the primary aim of this assessment is to establish their age. This is Merton procedural fairness

- inform the child/young person that you will give them the opportunity to clarify any confusion or inconsistencies in respect of their account before the age assessment is concluded. This is Merton procedural fairness
- at this point check that they have understood everything and to go over anything that is unclear.

Provide a brief summary of the age assessment process to the child/young person with the help of the interpreter:

- show the child/young person the Age Assessment proforma and run through the headings
- explain that because they have no documentation or way to confirm their age that is acceptable to the UK authorities, social services have been asked to establish their age
- explain that in order for the social worker(s) to make an informed decision about their age, their help is required
- explain that it is really important that they try to answer questions as fully as possible – there are no 'trick' questions
- explain if they do not understand anything they can say so and ask for questions to be repeated, and they can request a break at any time
- ask the child/young person if they have any questions they'd like to ask.

Check the proforma

- begin the assessment by checking that all of the information is correct on the front sheet of the Age Assessment proforma
- With the support of the Appropriate Adult and legal representative, ask the child/young person to sign or tick at the bottom of the form to confirm that the information is correct and that they agree to participate in the age assessment.

Grounds for Judicial Review – 'Merton Compliance' checklist

The assessment must be lawful, have adhered to all relevant and latest case law with reasons for decisions recorded. Grounds for a successful challenge to a local authority age assessment can be summarised as follows:

- was there a rational basis for disputing the person's age?
- was it conducted in a procedurally fair manner?
- was an Appropriate Adult present?
- were there two registered social workers, one of whom is experienced in conducting age assessments?
- did having two registered social workers make a material difference to the quality of the assessment process?
- was an interpreter present? Did the interpreter speak the dialect of the language that the child/young person spoke? A telephone interpreter must be avoided.
- were inconsistencies properly put to the child/young person and the child/young person given the opportunity to explain them before a conclusion was reached?
- was information sought from other sources? was that information sourced properly? what evidence can be shown as to the further inquiries? is it properly recorded?
- what other sources of information ought to have been solicited by the assessors?
- did the assessors fail to have regard to material relevant information and place too much weight or any weight on irrelevant information?
- was the age assessment Merton compliant in both a procedural and substantive way?
- does the information gathered in the age assessment provide a rational basis for the assessors' conclusion as to the child/young person's age?
- was the child/young person given the benefit of the doubt?

If it is decided to assess the young person as an adult, this must be explained fully with clear reasoning.

Section 6: Following the age assessment

Actions following completion of the age assessment

Delivering the decision: procedural fairness

- the social worker should arrange a post-assessment meeting with the child/young person to deliver the decision and provide a written conclusion without any delay
- an interpreter of the appropriate language/dialect should be used to ensure clarity in delivering the decision. This must be the same interpreter that participated in earlier assessment interviews
- the child/young person should be invited to have an Appropriate Adult present at the meeting
- the child/young person will already have had an opportunity to comment at the decision-making stage, and should be given an opportunity to comment at this conclusion stage
- **the assessment belongs to the child/young person and it should be provided to the child/young person without it being requested.** The assessment should also be made available in the first language of the child/young person and this should be done within a reasonable amount of time upon completion of the assessment
- the outcome of the age assessment should be put in writing and given to the child/young person (even where the claimed age is accepted). The letter should include information that the outcome can be challenged by child/young person with the help of a legal representative, with whom the child/young person should be encouraged to discuss the age assessment outcome
- it is recommended that the child/young person sign an acknowledgement of receiving the outcome of the age assessment and that it is made clear that doing so does not necessarily signify their acceptance of it

- handwritten notes of the post-assessment meeting should be kept, and the outcome of the age assessment written, even where the claimed age is accepted.

Independent checks on the process should be undertaken by the social worker(s).

This would include:

- discussing the decision with a Manager and/or colleagues and
- asking another social worker or Independent Reviewing Officer to check the assessment for process and procedural fairness, using the 'Merton compliance' checklist as a starting point
- the 'model information sharing proforma' should be signed alongside the Manager.

Information sharing following the completion of an age assessment

Where UKVI has disputed the child/young person's age, the outcome of the age assessment should be communicated promptly. In almost all circumstances the Home Office will accept the local authority decision on age which, in turn, will have serious consequences on how the child/young person's asylum application is processed. **While the Home Office should not be provided with the completed full age assessment, there is a responsibility on local authorities to provide a summary of it to the UKVI** which should include:

- an outline of the age assessment process (e.g. where was it conducted? by whom? who was present – interpreter? person assessed? Appropriate Adult? who was informed of outcome?)
- whether or not other sources of information have been sought and considered, such as a child/young person's documents, professional opinions from health and education practitioners, Appropriate Adults, advocates, support workers and foster carers

- the involvement of other agencies – which ones?
- a summary of the social workers' analysis and weight given to conflicting information and
- a record of how and why a decision was reached
- how the decision was communicated to the child/young person (verbally and in writing).

A recommended approach to information sharing between local authorities and UKVI is contained in the Model Information Sharing Proforma. While the use of the proforma and consent form is voluntary and not binding on local authorities, its substantive content is not.

Informed consent from the child/young person to sharing information

Young people must be informed by social workers at the outset of the age assessment that summary information will be shared with UKVI but not full details. In relation to UKVI sharing information with the local authority, it must be made clear to a child/young person that this will not ordinarily be the case and that apart from basic information, the local authority is required to make its own decisions about age.

This Toolkit does not accept it is possible to gain informed consent from a child/young person prior to an age assessment being carried out. This is because no one can form a view about whether the individual is competent enough to consent.

If the child/young person has received legal advice recommending consent then that consent can be accepted by the local authority but strictly in the context of absolute clarity about with whom the information is being shared and for what purpose. This part of the process must be recorded and shared with the child/young person and their legal adviser.

It must also be understood that the child/young person may not consent to information being shared. This must also be recorded and adhered to by the social workers.

Sharing the outcome of the age assessment with the child/young person

After sharing the outcome of the age assessment with the child/young person, the social worker should alert UKVI and any other agencies involved to the outcome of the age assessment to any changes pertaining to the child/young person's age. The child/young person's legal representative should also be notified. The social worker should also remind the child/young person that their full age assessment will not be shared with UKVI but a summary will be provided.

Once an age assessment is complete and where the individual is assessed as under 18, the child/young person will continue to be supported by a local authority under Section 76 SSWBA.

Where the individual is assessed as over 18, the young person is deemed to be an adult. In this case, the adult young person should be referred to the Welsh Refugee Council⁵³ for support. He/she may elect to stay with family or friends or they could, if they choose, be referred to adult support via safe transition arranged by UKVI Asylum Support. Where the adult young person wishes to apply for accommodation and support, practitioners must liaise with Asylum Support on 029 2092 4567. An ASF1 will need to be completed. For assistance with the ASF1, contact Migrant Help on 0808 8000 631.

53 <https://wrc.wales/contact/>

Ongoing relationship between the child/young person and social services

Children/young people have often said that even when they have been assessed as a child, whether at their claimed age or a different age, they found the process very difficult and upsetting and it had left them with feelings of distrust. **The impact on the child/young person should be acknowledged and every effort should be made to try to develop their confidence in the local authority's wish to support them in the future.**

Where the child/young person has been assessed to be a child but of an age different from that claimed, as their care and support continues, additional work will be needed to explain to the child why this decision has been reached and every attempt made to develop a trusting and supportive relationship between the child and the local authority.

It is also important for the social worker to ensure that they refer the young person for legal advice about mounting a challenge to the assessed age.

Annex 1a: Record of interview questions sheet

Question	Heading	Page

1b. Questioning the child/young person

You must take a child-friendly and sensitive approach, including checking that questions have been understood and offering breaks. **The child/young person should be asked their age and date of birth, and given the opportunity to explain how they know their age and date of birth.**

Simple, open-ended questions should generally be used, and you should ensure that questions are not confusing, repetitive or oppressive. There is also a place for closed questions where a child/young person, because of cultural or linguistic differences, does not understand what kind of information is being sought. Building trust and developing rapport with the child/young person is important to enable him or her to speak freely and provide a more detailed narrative to inform the assessment.

1c. Model purpose of interview statement by social workers

“The purpose of this interview is to assess your age and to establish who will support you in the future. We will be asking you questions about your life before you came to the UK. Sometimes it can be upsetting for people to talk about their experiences, so if you need to take a break, please just tell us. We will be taking notes during the interview to help us remember what you tell us. If you tell us anything we don’t understand or doesn’t make sense to us, then we might ask you for a bit more information. We do not make the decision about whether you will be granted permission to stay in the UK; that decision is made by a different organisation called the Home Office. When the assessment is finished, we will explain our decision about your age, and if we assess you as under 18 years old, you will be supported as a child by this local authority. If you are assessed to be an adult, then another agency will support you. If you disagree with our decision, you may be able to challenge this decision with the help of a solicitor. We will share a summary of this assessment with the Home Office.”

1d. The child/young person’s journey (it is recommended you consider these questions as a guide at the beginning of the interview)

When did you first know that plans were being made for you to leave your home?

What were you told about this and by whom?

What did you think about what was happening?

Who made the arrangements for your journey?

Were there any preparations that you or your family had to make leading up to the journey? money, food, clothes etc.

What advice were you given about your journey? i.e. about staying safe.

What do you think most worried your mother/ father about you having to leave?

What arrangements did you make to let them know you had arrived safely?

What documents or ID would you normally have? Where are they now?

How did your journey begin?

When did you leave your home? How do you know this was the date?

After leaving home, what happened next?

How did you travel? (by car, lorry, boat? when did you travel? in the night in the day?)

What happened next?

How did you eat, drink, sleep go to the toilet? who provided support with this?

Who else was travelling with you? adults, other children or young people?

Where are they now?

What countries did you travel through? How did you know you travelled through a different country?

When was the last contact that you had with anyone from your family since leaving home?

If so whom? (social workers have a duty to maintain family links between unaccompanied children and their families).

How did you know you'd arrived in the UK?

What happened next?

What reason did you give the police/immigration officers for being in the UK? What happened next? ...
And so on, until you arrive at the present time.

Annex 2: Age assessment proforma

Name of assessing social worker 1:

Name of assessing social worker 2:

Name of child/young person:

DOB child/young person is claiming:

Date(s) of assessment:

1. Physical appearance and demeanour

All assessments begin with initial impressions, made from visual presentation. An initial hypothesis of age range is formed based on height, facial features (facial hair, skin lines/folds, etc.), voice tone, and general impression.

It is essential to consider the physiological differences associated with ethnicity e.g. It is normal in some cultures for boys to have facial hair at an early age and for girls to develop at different ages. Bear in mind that life experiences and trauma impact on the ageing process.

It is essential to consider demeanour. How the child/young person presents and relate this to the culture of the country of origin and events preceding the interview, journey experiences and so on.

It is important to establish the length of time that the person has taken to arrive in the UK from the time they left their country of origin and include this into the age calculation.

2. Interaction of the child/young person during assessment

The manner in which the person interacts with the assessing social worker conducting the assessment, will provide some indication of whether or not the person is responding in an age appropriate manner.

It is important to note both the verbal and non-verbal (body language) behaviour of the person. The practitioners conducting the assessment should be observing factors such as the manner in which the person copes with the assessment, does he or she appear confident or overwhelmed?

The assessment of their demeanour may include the following observations, although when determining the weight to be applied to these, subsequent information on the limitations on using them must be fully considered:

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

Take account of differing cultural terms, e.g. some people may believe it impolite to make direct eye contact.

Remember to be aware of cultural variations in attitudes to elders.

Does the person appear to be uncomfortable with speaking to an adult?

Keep in mind that your position will be seen as one of power/authority which may influence the way the person interacts with you. **Your role needs to be clarified and the differences in the roles of social services and UKVI.**

3. Social history and family composition

Please indicate to the child/young person that you are aware that talking about their family may be very painful and difficult for them; for some, it may be too painful to open up at this time. This must be understood and respected.

It is important to clarify the nature of their parent and sibling relationships as some cultures for example, call a half-brother their brother, or stepmother their mother.

Suggested questions:

- Where were you born? Name village, region, province, country? How long did you live there?
- Who lived with you? Parents, extended family members? (Record the names and known ages of parents on genogram) Also, ask if either parent had more than one wife/husband and check how many wives the young person's father has.
- Record names of all known blood relatives, siblings, aunts, uncles and cousins; their ages and where they live. (Non-blood relatives are often known as 'brother or uncle').
- How well did you get on with different members of your family?
- What did your father do for work?
- What did your mother do?
- Would you describe your family as having less than, the same as, or more than most people in your village?
- Describe your house; the layout, who slept where, was there a garden? Did they keep animals? etc.
- Tell me about your village so that I can imagine what it's like.
- Did you and your family mix socially with extended family, neighbours etc?
- Who were your friends? How old were they?
- How did you spend your spare time?
- Did you have TV, Internet, telephone? If so what did you like to spend time watching?
- Who did you talk to if you were worried about something?
- What sort of things might be considered 'bad behaviour' by your parents?
- Were you ever punished? And if so how and by whom would you be punished?
- Did your family celebrate special occasions? If so, which occasions did they celebrate? (If they observe Ramadan, were you expected to fast? for how many days?)
- What other villages/towns were nearby?
- If you wanted to get somewhere how would you travel?
- Where did you attend Mosque, Church etc.
- Who did you attend with? Did you have a regular role?
- How many times a week/day did you attend?
- What religious or cultural celebrations can you remember taking part in? (Eid is twice a year around October and after Ramadan in March).

4. Developmental considerations

The child/young person's view of how they 'know' their stated age.

Questions about the types of activities and roles that the person was involved in prior to arriving in the UK can often give an indication of age. Remember to use open-ended questions, as this will allow for the child/young person to disclose information without prompting.

- Cultural considerations need to be remembered as in some cultures it could be normal for a young teenager to be working full-time. A person may appear to answer a question about alcohol in a shy manner because their religion does not allow alcohol.
- "Tell me what you did in your spare time" is the sort of question that can give an idea of the age appropriate interests and activities. Remember to relate answers to what would be appropriate in the young person's country of origin and culture.
- Ask about peer relationships at school/work/neighbourhood.
- Questions about age-related rituals could be asked; including forced marriage, and any sexual relationships.
- Does what the person is describing seem age appropriate?
- Remember that some young people may possibly have been involved in armed conflict, have been child soldiers, involved in sexual exploitation and may have experienced a number of traumatic situations.
- Answering questions related to many of the above may be too difficult and painful until a relationship of trust has been established.
- Arranging for a person to be involved in social situations with other young people of the age claimed, and observing how this person interacts and is accepted, can be useful.

5. Education

Obtaining a detailed account of the person's educational history is a valuable source in the age assessment process. Listed below are important facts that need to be gained.

Suggested questions:

- Where did you go to school? Record name and address of school.
- How old were you when you started school?
- How long did you attend?
- Were there any gaps when you couldn't attend school?
- When was the last time that you went to school?
- What sort of school did you attend i.e. was it a state school, a mosque school etc.
- How many children were there in your class?
- What were their ages? How did you know their ages?
- Were there boys and girls in your class/school?
- What subjects did you study?
- What did you enjoy learning about the most?
- What would your parents say you were best at?

- Who were your friends at school? What would your friends say that you were good at?
- What do you think your parents would have told your teacher about your absence?
- What was your teacher's name? Head teacher? Favourite teacher?
- Describe a typical day at school...
- What happened if you did something against the school rules?
- What do you hope to achieve from your education?
- If the child/young person has not attended school:
- Why didn't you attend school?
- Do you work?
- Can you read or write? If so, in what language?
- Who taught you to read/write?
- Did other children in your village attend school?
- Did any of your siblings attend school?
- What did you do during the day?
- What skills do you have? e.g. carpentry? tailoring? animal husbandry? shop work?
- Were you paid money for the work you did?
- If so, by whom?
- If you worked, who were your friends?
- What activities did you share with them socially?
- Did you contribute towards your family financially?
- If not, who bought you the things that you need?
- What do you hope to do now that they have arrived in the UK?

6. Independence/self-care skills

Understanding the level of ability, experience and confidence that a person has in being able to care for themselves can be an indicator of age. Their confidence and identity sense of self, knowing their mind and overall sense of maturity may also indicate age. As can expressions of deference, hyper vigilance and naivety.

The assessing social worker may wish to ask the person directly how they feel about living in an independent setting and observe their reaction. They may wish to pose a scenario to the child/young person at this point or at the end of the assessment; that if the child/young person is believed to be under 16 he or she will be placed in foster care where certain house rules will have to be followed, and will be expected to be home at a certain time, etc. The reaction to this may provide valuable information.

Suggested questions:

- Describe a typical day in your family life from when you wake up i.e. who wakes you up, makes you breakfast, launders your clothes?
- When was the last time you went to see a doctor?
- When was the last time you saw a dentist?

- Who buys/chooses your clothes?
- Who looks after the house, feeds the animals, supervises the younger children etc?
- Were you expected to undertake any regular tasks, inside or outside the home?
- How far had you been allowed to travel alone before your journey to the UK?
- Tell me about your health (take a history of any stays in hospital, broken bones vaccinations etc.).
- What are you able to do for yourself? Are you able to launder your own clothes? Cook a simple meal? shop? use money?
- What types of foods would you say are important to eat regularly?
- Tell me about your diet?
- Have you needed to see a doctor or dentist while you've been in the UK?
- Are you on any medication?
- What sort of things have you had to do for yourself since coming to the UK?
- What have you found hardest since arriving?
- What sort of things do you worry about?
- Is there anything that you are worried about now?
- Who can you talk to if something is bothering you?
- What would you do if you needed the doctor?

7. Information from documentation and other sources

Documentation when available should always be carefully checked; authenticating documents however, is a specialist task. If the assessment is an ongoing process, it is important to obtain the views of other significant figures involved with the young person.

Other sources may include foster carers, residential care workers, school teachers, doctors, solicitors and other young people, third or community sector or other support organisations. Observations of how the person interacts in different social situations can provide useful age indicators.

8. Analysis of information gained

Key indicators of the analysis:

The assessing social worker should:

- draw together the information obtained
- the weight placed on each piece of information and why
- which country information has been read both in relation to when the child/young person was living in the country and since their departure and arrival in the UK/Wales and
- set out the information gathered by the assessing social workers in respect of information obtained from other sources.

10. Decision

The assessing social worker should present his/her views and judgement on the age of the person being assessed, giving clear reasons for the conclusion. If this differs from the claimed age, clear reasons should be given.

Please remember this process is not an exact science and that **conclusions should always give the benefit of doubt to the young person being a child.**

Based on the Assessment, the child/young person's assessed age is:

DoB is estimated to be:

Annex 3: Age assessment decision form – for the child/young person

Name:

Nationality:

Port Ref No:

Claimed age/DOB:

UK Visas & Immigration Ref No:

Name and address of local authority undertaking the assessment:

Names of the assessing social workers:

Date(s) of assessment:

You have been assessed to be over 18:

You have been assessed to be a child, age: years DoB:

Your assessment is inconclusive and further work is necessary:

Conclusions and reasons for the decision reached:

It was explained to you that at the end of your interview you have the right to disagree with the outcome of the assessment and to challenge our decision.

You may do so by contacting a manager at the xxxx Council, telephone xxxx or by requesting the ‘*Complaints Procedure for Children and Young People*’ on the same number.

You can also seek the advice of a solicitor to challenge this decision.

Annex 4: Model information sharing proforma for social services and the Home Office/UKVI

XXXX local authority and the Home Office regarding the outcome of the age assessment for:

Name of child/young person:

Country of origin:

Claimed date of birth:

Date assessment completed:

The assessment was undertaken by:

Social worker A – position, qualifications, experience – state if differential roles assigned
e.g. lead social worker

Social worker B- position, qualifications, experience

Outline of dates of interviews, venue, who present: including interpreter and any independent person such as an Appropriate Adult or advocate.

Summary of process.

Should include the following evidence:

Informed of reasons for interview

Any advocacy provided

Demonstrate that it has been conducted in a way that conforms to Merton and other relevant case law/guidance

Other sources of information, including other age assessments that have been taken into consideration.

Conclusion on age issue (summary of substantive report)

Outcome.

Has the decision been shared with the child/young person including providing a copy of the assessment document?

Has the opportunity been provided to check and challenge information included?

Has a copy of the assessment document and decision been provided to the child/young person's solicitor and advocate?

Assessed Date of Birth:

Date new age/DoB effective from:

Signed by both assessing social workers:

Endorsement of Manager or Independent Reviewing Officer:

I am in agreement with the outcome of the assessment and confirm that the assessment process has been lawfully conducted and complies with guidance arising from the Merton Judgement and subsequent case law.

Name:

Organisation

Status:

Signed:

Date:

Manager/Independent Reviewing Officer comments:

PRIVATE AND CONFIDENTIAL – INSERT YOUR OWN LOCAL AUTHORITY STATEMENT HERE

e.g. This document and the information contained in it is the property of xxxx Council and should not be copied, distributed or in any other way disseminated to any other person or bodies, without the prior (written) consent of xxxx Council.

Annex 5: Adverse Childhood Experiences and a trauma informed approach to age assessment

The principles of trauma informed practice should be applied to the age assessment process, to support the child/young person to take part in the process, and to minimise further trauma from that participation. A trauma informed approach recognises the need for the individual to feel **safe** both from physical risk from people who have harmed them in the past such as traffickers, but also in the room or environment the interview is taking place. Relevant support should be available in case of distress and asking them to restate traumatic events provided in other interviews should be avoided. **Trust** should be established with a clear and transparent approach that is understood by the child or young person, consent is maintained and there are no unexpected events. Trauma informed practice is a children's rights led approach that enables **empowerment** through listening to the young person and explaining the process. **Choice** can be provided within this process such as the gender of the interviewer or interpreter, and **collaboration** on how the interview is conducted.

The age assessment should form part of an overall process that supports positive development of strengths and personal resilience, the ability to overcome serious hardship, that many children and young people will already have not contributed to the trauma that undermines this.

Many of the children/young people being assessed will have needs and vulnerabilities beyond being a child/young person on their own in a new country and you should bear this in mind when planning their assessment. Some assessing social workers will not be able to diagnose physical, mental or emotional health difficulties or learning difficulties, or the effects of trauma, but should be alert to the fact that the child/young person in front of them

has by definition undergone experiences which are likely to have a serious impact on their development and on their ability to clearly answer all questions put to them. Grief, observance of or participation in violence, cultural dislocation, the type and expression of feelings, i.e. withheld, vocalised and level of emotional control are just some examples of traumatic experiences and behaviours.

At the time of assessment, the child/young person may have made a recent claim for asylum. They may have been questioned several times in recent days about their history, for example by immigration officers and other Home Office officials, or legal representatives. Some children/young people may never have been questioned about their lives in this way before and may be confused, stressed or distressed by what they perceive to be repeated questioning and disbelief about their lives, for reasons which they do not understand.

Much of the assessment is likely to rely on what the child/young person tells the assessing social workers. There is a significant body of research casting doubt on the accuracy of 'normal' memory, and most people have difficulties in accurately and repeatedly recalling some things in their lives. Children/young people are likely to find it even harder to clearly recall and recount distressing memories. Further, post-traumatic stress and depression are the most common psychiatric diagnoses in asylum seekers of all ages and these illnesses impact on memory. There is also the difficulty of telling and being understood across widely divergent cultures.

Annex 6: Case law – what is meant by a ‘Merton compliant’ age assessment?

R (B) v London Borough of Merton 2003

There is no statutory guidance on how to conduct an age assessment, and a body of case law has developed which gives guidance on the process required. The leading case in this area is **R (B) v Merton 2003** in which the Judge set down broad guidelines as to how age ought to be assessed in respect of unaccompanied minors who arrive in the UK without documentary evidence to prove their age. The Judge confirmed that the local authority **“cannot simply adopt a decision made by UK Visas and Immigration”** and outlined the following points, many of which have been reiterated in subsequent legal cases:

- an assessment cannot be made solely on the basis of appearance or demeanour, 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 which form the child’s medical, family and social history and decision-makers should seek to elicit the general background of the application, including family circumstances and history, educational background and activities during the previous few years. Cultural and country of origin information is also important. General credibility of child as to their journey or past is not necessarily determinative of general credibility on age

- there is a duty on the decision-makers to give reasons for a decision that the 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-makers concluded
- age assessments must be conducted by two workers acting together. One worker should be a qualified social worker and the qualified social worker should assume the lead role in planning the overall assessments, and ensure that all the safeguards to ensure fairness are in place
- where decision-makers are in doubt about the age of the claimant, the claimant should receive the benefit of that doubt.

An appropriate ‘Merton-compliant’ age assessment is crucial to both the outcome of the asylum application, and the appropriate provision of services to meet the individual’s needs. The judgement established a vital baseline for age assessment, but this judgement should not be utilised in isolation from the growing body of emerging case law. A ‘Merton compliant’ assessment will be in accordance with both with the Merton judgment and subsequent case law addressing age disputes.

Annex 7: Key legal judgements since Merton

Case law is regularly updated. It is worth checking the websites of Coram Children's Legal Centre, Free Movement, and the High Court, Court of Appeal and Supreme Court for new judgements.

R (A) v Croydon, R (M) v Lambeth

This judgement found that local authorities have to decide if a person presenting to it for care and support, is a child and if that decision remains disputed, the courts may have to decide:

www.supremecourt.uk/cases/docs/uksc-2009-0106-press-summary.pdf

BF (Eritrea) v SSHD and EHRC ('Significantly over' judgement) (May 2019)

This judgement brings in case law that refers to the UK Government's guidance on age assessment. The guidance in criterion C permitting the Secretary of State to refuse to accept an individual's assertion that he is 18 if "their physical appearance/ demeanour very strongly suggests that they are significantly over 18 years of age" is unlawful: www.matrixlaw.co.uk/judgments/immigration-guidance-on-assessing-age-of-asylum-seekers-found-to-be-unlawful/

R (K) v Milton Keynes Council [2019] 4

WLUK 180 found that Merton recognised that no full assessment was required in clear cases. It was lawful for the authority to proceed in this manner without a full assessment. A full detailed age assessment was reserved for cases of doubt. There was no evidence in this case with which to challenge the authority's decision that it was a clear and obvious case: <https://communitycare11kbw.com/2019/04/12/age-assessments-short-form-assessments-in-obvious-cases/>

AB v Kent County Council [2020] EWHC

109 (Admin) found that the abbreviated age assessment carried out by the local authority was unlawful, and a full Merton assessment was ordered to be carried out by independent social workers. In relation to the original assessment, the Judge said that providing its limitations as set out in her judgement were recognised, she accepted it provided relevant material for the local authority to build upon. The Judge confirmed that the case should be transferred to the Upper Tribunal if a dispute remains following the full Merton assessment: www.publiclawtoday.co.uk/child-protection/392-children-protection-news/42427-abbreviated-age-assessment-of-afghan-national-carried-out-by-council-was-unlawful-high-court-rules

The Judge's summary is here: **AB v Kent County Council [2020] EWHC 109 (Admin)**

Purpose of the assessment

- the purpose of an age assessment is to establish the chronological age of a young person.

Burden of proof and the 'benefit of the doubt'

- there should be no predisposition, divorced from the information and evidence available to the local authority, to assume that an applicant is an adult, or conversely that he is a child
- the decision needs to be based on particular facts concerning the particular person and is made on the balance of probabilities
- there is no burden of proof imposed on the applicant to prove his or her age
- the benefit of any doubt is always given to the unaccompanied asylum-seeking child since it is recognised that age assessment is not a scientific process.

Physical appearance and demeanour

- the decision maker cannot determine age solely on the basis of the appearance of the applicant, except in clear cases
- physical appearance is a notoriously unreliable basis for assessment of chronological age
- demeanour can also be notoriously unreliable and by itself constitutes only 'somewhat fragile material'. Demeanour will generally need to be viewed together with other things including inconsistencies in his account of how the applicant knew his/her age
- the finding that little weight can be attached to physical appearance applies even more so to photographs which are not three-dimensional and where the appearance of the subject can be significantly affected by how photographs are lit, the type of the exposure, the quality of the camera and other factors, not least including the clothing worn.

Conduct of the assessment

- the assessment must be done by two social workers who should be properly trained and experienced
- the applicant should be told the purpose of the assessment
- an interpreter must be provided if necessary
- the applicant should have an appropriate adult, and should be informed of the right to have one, with the purpose of having an appropriate adult also being explained to the applicant
- the approach of the assessors must involve trying to establish a rapport with the applicant and any questioning, while recognising the possibility of coaching, should be by means of open-ended and not leading questions. Assessors should be aware of the customs and practices and any particular difficulties faced by the applicant in his home society

- the interview must seek to obtain the general background of the applicant including his family circumstances and history, educational background and his activities during the previous few years
- an assessment of the applicant's credibility must be made if there is reason to doubt his/her statement as to his/her age
- the applicant should be given the opportunity to explain any inconsistencies in his/her account or anything which is likely to result in adverse credibility findings.

Preliminary decision

- an applicant should be given a fair and proper opportunity, at a stage when a possible adverse decision is no more than provisional, to deal with important points adverse to his age case which may weigh against him. It is not sufficient that the interviewing social workers withdraw to consider their decision, and then return to present the applicant with their conclusions without first giving him the opportunity to deal with the adverse points.

The decision and reasons

- in reaching a conclusion, the local authority must have adequate information to reach a decision independent of the Home Office's decision
- adequate reasons must be given
- the interview must be written up promptly.

Annex 8: Resources to support the age assessment process

Relevant Organisations

The Association of Directors of Social Services Cymru (ADSSC) is the national leadership organisation for social services in Wales which represents the collective voice of Directors of Social Services, Heads of Adult Services, Heads of Children's Services and Heads of Business Services on a range of national and regional issues of social care policy, practice and resourcing.
www.adss.cymru/

All Wales Heads of Children's Services (AWHoCS) are responsible for leading on all aspects of children's services, formulating the ADSS Cymru responses to policy consultations and articulating the voice of those local authority professional leaders who deliver care and support to children and families across Wales. From this group, seven Regional Leads for UASC are drawn.
www.adss.cymru/en/page/awhocs-members

The Wales Strategic Migration Partnership (WSMP) is hosted by the **Welsh Local Government Association (WLGA)** to reflect the Partnership's all Wales role around migration in all its forms and to help foster closer working with the 22 local authorities in Wales improving links with local government's political structures and local priorities.
www.wlga.wales/wales-strategic-migration-partnership

Barnardo's provides the **Independent Child Trafficking Guardian Service** in Wales and advice on child trafficking:
www.barnardos.org.uk/what-we-do/protecting-children/trafficked-children
NSPCC Cymru also provides advice on child trafficking:
www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/child-trafficking/

The National Youth Advocacy Service Cymru (NYAS Cymru) provides statutory advocacy services in: Cardiff, Newport, Caerphilly, Torfaen, Blaenau Gwent, Monmouthshire and the Vale of Glamorgan. NYAS Cymru provides an Appropriate Adult Service for independent representation to children/young people subject to a full age assessment. It can also provide an Appropriate Adult Service to other local authorities in Wales on a spot purchase basis.
www.nyas.net/

Tros Gynnal Plant (TGP Cymru) offers a range of services including Advocacy, a Participation Group, consultation work, accessing volunteering opportunities, training and service policy development affecting young asylum seekers and refugees up to the age of 25. Their services cover the whole of Wales. Their advocacy casework criteria are:

- UASC not receiving statutory advocacy services
- age assessment disputed cases where a young person is assessed as over 18
- asylum seekers with specific issues about education aged 15 to 23
- asylum seekers under 25 with multiple and complex issues.

www.tgpcymru.org.uk/

The Welsh Refugee Council provides a range of support including coordination of Welsh Government's Asylum Rights Programme:
www.welshrefugeecouncil.org.uk/

Ethnic Youth Support Team provides support to children and young people and their families including refugees and asylum seekers aged 11-25 by providing a targeted, culturally sensitive and holistic support service to meet their needs:
<http://eyst.org.uk/support-bme-children.php>

The Children's Commissioner for Wales

supports children and young people to find out about their rights under the United Nations Convention on the Rights of the Child (UNCRC); listens to children and young people to find out what's important to them; advises children, young people and those who care for them if they think they've been treated unfairly; influences government and other organisations who say they're going to make a difference to children's lives, making sure they keep their promises to children and young people; and speaks up for children and young people in Wales on important issues:

www.childcomwales.org.uk/

The Wales Interpretation and Translation

Service (WITS) sources and allocates professional interpreters and translators for the public sector: 02920 537555 and www.wits.wales/

UK Visas and Immigration (UKVI) is part of the Home Office. It is responsible for making millions of decisions every year about who has the right to visit or stay in the country, with a firm emphasis on national security and a culture of customer satisfaction for people who come here legally. Guidance on asylum policy is available on its website.

www.gov.uk/topic/immigration-operational-guidance/asylum-policy

The Cardiff Service and Support Centre for UK Visas and Immigration is located at General Buildings, Ground floor, 31-33 Newport Road, Cardiff, CF24 0AB.

www.gov.uk/visas-and-immigration-service-and-support-centres/locations

Children's Legal Centre Wales is a bilingual Wales-wide service providing information and access to legal advice for children and young people:

<https://Childrenslegalcentre.wales>

Coram Children's Legal Centre has a **Migrant Children's Project (MCP)** which offers one-to-one legal advice on issues affecting children subject to immigration control through email advice, an outreach program and a range of free resources. It provides training to practitioners working with young refugees and migrants. The MCP also undertakes research and policy advocacy, combining specialist technical knowledge about the domestic and international law with evidence from front-line work, to ensure children's rights are embedded in law and in practice.

www.childrenslegalcentre.com/get-legal-advice/immigration-asylum-nationality/
www.childrenslegalcentre.com/about-us/what-we-do/migrant-childrens-project/

The Immigration Law Practitioners Association

(ILPA) works to promote and improve how immigrants are advised and represented and to provide information on domestic and European immigration, asylum and nationality law:

www.ilpa.org.uk/

Social Workers Without Borders provides independent social work assessments for UASC children and young people:

www.socialworkerswithoutborders.org/

Legislation

The Social Services and Well-Being (Wales) Act 2014 (SSWBA)

is the relevant legislation around children and social care and support in Wales:

www.legislation.gov.uk/anaw/2014/4/contents

It has associated statutory guidance in the form of Codes of Practice:

<https://gweddill.gov.wales/topics/health/socialcare/act/code-of-practice/?lang=en>

The Rights of Children and Young Persons

(Wales) Measure 2011 places Welsh Ministers under a duty to have due regard to the UN Convention on the Rights of the Child (UNCRC).

www.legislation.gov.uk/mwa/2011/2/contents

The Immigration Rules make up the UK's immigration law. They are updated on a regular basis and all changes can be found in the Immigration Rules: statement of changes. The rules are divided into different documents, the index page will help locate what is needed and archived copies of the consolidated Immigration Rules as they were on the date before each statement of changes came into effect, are also available.

www.gov.uk/guidance/immigration-rules

The Borders, Citizenship and Immigration Act 2009, Section 55 requires the Home Office to carry out its existing functions in a way that takes-into-account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions:

www.legislation.gov.uk/ukpga/2009/11/section/55

The Modern Slavery Act 2015 makes provision about slavery, servitude and forced or compulsory labour and about human trafficking, including provision for the protection of victims; it makes provision for an Independent Anti-slavery Commissioner and for connected purposes.

www.legislation.gov.uk/ukpga/2015/30/contents/enacted

Guidance and best practice

The Children's Legal Centre Wales, Swansea University (2019) has produced a series of guides for social workers and foster carers supporting children/young people and for children/young people themselves, the latter in ten community languages. The guides for children/young people are about their rights and entitlements, being looked after and applying to stay in Wales:

<https://gov.wales/unaccompanied-asylum-seeking-children-guidance-professionals>

Welsh Government has published a briefing about the rights and entitlements of UASC/ young people in respect of the Social Services and Well-being (Wales) Act 2014:

<https://gov.wales/law-care-and-support-unaccompanied-asylum-seeking-children>

The Refugee Council (2020) has produced a guide for children/young people about claiming asylum in the UK. It is more England-focused than the Children's Legal Centre guide linked above but is still a useful resource:

www.refugeecouncil.org.uk/information/resources/separated-childguide-to-claiming-asylum-in-the-uk/

Right to Remain Toolkit – Young Asylum Guide (2021) is again an England-focused resource but does helpfully set out the stages of claiming asylum in the UK:

<https://youngasylumguide.org.uk/>

Coram Children's Legal Centre (2017) information and fact sheet about the age assessment process:

www.childrenslegalcentre.com/resources/age-assessment/

The Wales Safeguarding Procedures (2019) provides practice guidance for social workers in relation to child and adult safeguarding:

www.safeguarding.wales

The Wales Safeguarding Procedures All Wales Practice Guides (2019) which are relevant to caring for children/young people:

Safeguarding children from Child Criminal Exploitation

www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p1.html?nocache=0.39108947487036216

Safeguarding children from harmful practices related to tradition, culture, religion or superstition

www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p2.html?nocache=0.8857640899634944

Safeguarding children who may be trafficked
www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p3.html?nocache=0.7407025730595814

Safeguarding children from
Child Sexual Exploitation
www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p10.html?nocache=0.4799422536669225

Safeguarding children affected
by Domestic Abuse
www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p4.html?nocache=0.49734502341203884

Safeguarding children where there are concerns
about harmful sexual behaviour
www.myguideapps.com/projects/wales_safeguarding_procedures/default/chi/c6/c6.p7.html?nocache=0.8692464955966421

Health and wellbeing provision for refugees
and asylum seekers, Welsh Government
(2018) provides guidance on primary and
secondary healthcare services to refugees
and asylum seekers.
https://gov.wales/sites/default/files/publications/2019-03/health-and-wellbeing-provision-for-refugees-and-asylum-seekers_0.pdf

The Royal College of Paediatrics and Child
Health has published guidance for paediatricians
including on age assessment (2018):
www.rcpch.ac.uk/resources/refugee-unaccompanied-asylum-seeking-children-young-people-guidance-paediatricians

Female genital mutilation: guidance for
practitioners, Welsh Government (2019)
<https://gov.wales/female-genital-mutilation-guidance-professionals>

Free Movement offers commentary, training
and advice to all those affected by immigration
control: migrants themselves, their families,
their lawyers and Judges:
www.freemovement.org.uk/about/
A free, weekly email newsletter can be signed
up to. For full access, your legal department may
wish to subscribe.

The Right to Remain Toolkit is a guide to the
UK immigration and asylum system. It gives an
overview of the legal system and procedures,
with detailed information on rights and options
at key stages and actions which can be take
in support of asylum claims:
<https://righttoremain.org.uk/toolkit/>

The ACEs Hub hosted by Public Health Wales
published this important research about the
extent to which asylum seeking and refugee
children arriving and settling in Wales and
the UK, are affected by ACEs (2020)
www.wmsmp.org.uk/wp-content/uploads/ACEs-in-Child-Refugee-and-Asylum-Seekers-Report-English-final.pdf

Aberystwyth University (2020) research in to the
adverse childhood experiences of 1930s child
refugees and learning to be gained in support
of today's asylum seeking and refugee children:
www.aber.ac.uk/en/news/archive/2020/06/title-232985-en.html

Age Assessment Guidance; Guidance to assist
social workers in completing age assessments
in the UK, BASW (2014):
http://cdn.basw.co.uk/upload/basw_35330-3.pdf

Social Care Institute for Excellence (SCIE) has
a suite of resources (not updated since 2015)
which are described as being valuable practice
guidance. These include practice examples.
www.scie.org.uk/publications/guides/guide37-good-practice-in-social-care-with-refugees-and-asylum-seekers/

Home Office (2020) Processing Children's
Asylum Claims:
www.gov.uk/government/publications/processing-an-asylum-application-from-a-child-instruction

Other resources

The Sanctuary website. This website, funded by Welsh Government, helps refugees and asylum seekers to understand their rights. It is available in a range of languages and provides information by the stages of the asylum process and public service area:

<https://sanctuary.gov.wales/>

Nation of Sanctuary– Refugee and Asylum Seeker Plan for Wales, Welsh Government (2019). This sets out actions and priorities aligned to the themes and priorities in Prosperity for All: the National Strategy for Wales:

https://gov.wales/sites/default/files/publications/2019-03/nation-of-sanctuary-refugee-and-asylum-seeker-plan_0.pdf

Inquiry into Refugees and Asylum Seekers in Wales, a report by the Equality, Local Government and Communities Committee, National Assembly for Wales (2017). It sets out findings and provides a series of recommendations:

www.assembly.wales/laid%20documents/cr-ld11012/cr-ld11012-e.pdf

Welsh Government published a written response:

www.assembly.wales/laid%20documents/gen-ld11074/gen-ld11074-e.pdf