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### *Age Assessment Practice Guidance — An Age Assessment Pathway for Social Workers in Scotland*

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# Age Assessment Practice Guidance

## An Age Assessment Pathway for Social Workers in Scotland

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Clare Tudor

First Edition  
June 2012

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## John Wilkes, Chief Executive Scottish Refugee Council

Scottish Refugee Council's vision is for a Scotland in which all people seeking refugee protection are welcome and where women, children and men are protected, find safety and support, have their human rights and dignity respected and are able to achieve their full potential. Through our direct work with young people seeking asylum alone, we know that they face many obstacles and challenges to achieving these goals. Without reliable or authentic documentation, one of the immediate challenges for many can be to prove how old they actually are. Age is a critical factor in asylum and immigration law as well as welfare law. A wrong decision made by authorities can have serious implications for how a young person will be treated in Scotland. The fact that there is no Scottish specific guidance or case law to assist social workers to undertake the difficult task of making an assessment of age compounds an already complex and contentious issue. This has inevitably led to misunderstanding and confusion and a lack of consistent practice across Scotland. Scottish Refugee Council has been concerned that this has left young people further lost in the complex world of asylum and related processes. We were determined to seek solutions and take practical steps to address the issue. This culminated in many months of work with a number of key stakeholders and colleagues and has ultimately delivered a hugely important piece of collaborative work with Glasgow City Council. We are very grateful to all those who have contributed to this vitally important guidance.

We at Scottish Refugee Council are very proud of all that has been achieved and whilst we recognise that this will be a dynamic and evolving piece of work, we feel it is a big step towards making age assessment more transparent, child-focussed, consistent and ultimately fairer. We hope it adds to the discussions how practice may be continually improved and informs the wider debate on who, how, where and when such assessments should be carried out. Above all we hope this work will play a significant role in improving the lives of the young people seeking protection in Scotland.

## Susanne Millar, Head of Children and Families, Homelessness, and Asylum, Glasgow City Council

Age assessment is a highly complex area of a social worker's role. We are fortunate in Glasgow to have a dedicated specialist team of social workers working with very vulnerable separated children and young people. As many separated children are found and accommodated in Glasgow we have gained unique insights into the needs, including the assessment issues of this very vulnerable group of children and young people. Many of these young people arrive without any form of identification, some may simply not know their date of birth, for many birthdays have never been celebrated and they come from societies that do not hold age as an important factor or identifying feature. We, as the corporate parent, become immediately responsible for the young people's care and protection but must balance this with the protection of all children so must be able to comprehensively and competently assess age.

We are proud to have been able to share our expertise and experience in this project and to work collaboratively and successfully with a voluntary organisation in what I hope and believe is a valuable first step to dramatically improving the consistency and standard of age assessments in Scotland.

The production of this Guidance would not have been possible without the major contributions made by a number of key stakeholders and agencies working directly with age disputed young people in Scotland. Our sincere thanks go to Chris Perkins of the Glasgow City Council Asylum Assessment Team; Trish McMonagle of the UK Border Agency and Catriona MacSween of the Scottish Guardianship Pilot Service for their valuable insights into practice issues. We wish to thank Laura Jamieson of COSLA for all her work on this guidance and the accompanying information sharing protocol; to Sheila Logan of the Information Commissioner's Office for her support; to Stefan Stoyanov of the Office of Scotland's Commissioner for Children and Young People for ensuring the guidance was always centred on young people and safeguarding them; and Gary Christie for his assistance in keeping the project on track.

We wish to acknowledge the kind support and valuable contributions made by colleagues in Edinburgh City Council, Freedom from Torture, the Compass Project and British Red Cross Refugee Project all of whom generously gave time and support to this project. We finally wish to thank the Migrant Children's Project staff at the Legal Services Agency, Baljeet Sandhu of the Refugee Children's Rights Project, Kamena Dorling from the Coram Children's Legal Centre and Kenneth McDonald of Glasgow City Council for helping us with the complex legal matters and referencing material.

This project would not have been possible without the financial and practical support of The Diana Princess of Wales Memorial Fund and the Scottish Government.

This Guidance has been developed by Scottish Refugee Council in conjunction with Glasgow City Council. It has been informed by consultations with a number of stakeholder bodies and aims to assist those working with unaccompanied asylum seeking young people by providing information and advice concerning age assessment management and practice issues.

Age assessment sits within a framework of Immigration and Child Welfare law and this continues to evolve. This Guidance represents the

views of Scottish Refugee Council and Glasgow City Council at this time and readers should consider how any new case law will have a bearing upon the practice that is suggested here.

The responsibility for ensuring that an age assessment is legally compliant remains with the relevant local authority. The Guidance should not be taken in any way as constituting, or as a substitute, for legal advice.

## About the Authors

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Clare Tudor is Children's Policy Officer at Scottish Refugee Council.

This Guidance is put forward as a contribution to the development of good practice in Scotland regarding the age assessment of young asylum seekers, an aspect of social work practice that currently is relatively underdeveloped compared with other areas relating to 'assessment'. The practice suggestions that are described have been principally developed with reference to the experience of Scottish Refugee Council and Glasgow City Council but they also draw very heavily upon the findings of academic research, case law and the practice experience of voluntary sector agencies who work with young asylum seekers and refugees. Age is a critical factor in determining how an asylum claim will be managed, whether age related grounds may apply and what outcomes to a claim are possible.

Age assessments are important. Age determines what duties and powers apply when local authorities are considering whether or how to support a young asylum claimant. Age is a critical factor in determining how an asylum claim will be managed, whether age related grounds may apply and what outcomes to a claim are possible.

A legally compliant age assessment carried out to professional standards will serve the interests of both the young person and the assessing local authority, not least because of the possibility of a challenge to a decision through judicial review with all that this potentially entails for the parties concerned. It is important therefore to adopt assessment practices that are defensible as this will assist in avoiding unnecessary distress and cost later on.

Age assessments are triggered by uncertainty and their completion is frequently a difficult task. Much of this is due to the absence of easily verifiable information and a lack of straightforward physiological or cognitive tests that can give a definitive answer with a narrow margin of error. Currently best practice would appear to involve a blend of knowledge and experience, comprehensive information gathering and reasoned, evidenced judgement, safeguarded within a procedure which is transparent and meets the requirements of existing case law.

The responsibility for conducting age assessments sits with the local authority where the young person is residing. There is currently a highly uneven distribution between Scottish local authorities of cases requiring age assessment. Glasgow and Edinburgh City Councils have by far the highest incidence of referrals and in response have developed their own specialist teams. However other authorities are increasingly carrying out age assessments and so developing valuable experience. The level of demand experienced by other authorities has so far not required them to develop similar services. This Guidance notes the challenge presented to those authorities in being expected to ensure that they have the capacity to meet what might be an infrequent or even rare requirement.

The Guidance does not put forward proposals as to how local authorities should make their own arrangements instead it is suggested that they should individually and collectively consider the range of possible options open to them to ensure good practice.

The Guidance indicates the key principles and considerations that are relevant to approaching and planning the age assessment of young asylum seekers. It is intended to assist managers, social workers and other involved staff by offering a framework that can be adapted to suit the particular situation of both the applicant and the relevant local authority.

It is stressed that it should not be used prescriptively as a checklist to replace professional judgement about how to assess. Instead it offers reference points and prompts to provide a structure within which an assessment can be undertaken and help ensure that the thinking behind a decision is made explicit.

This Guidance is not intended to be legally binding. Decisions about whether and how to apply the Guidance will rest with the assessing local authority. That said, each local authority that will be required to account for its practice in the event of a legal challenge and it is hoped this Guidance will give a sound foundation for developing good practice and decision making.

The Guidance is based on the view that any assessment of age will involve considering factors that would be relevant to assessments of need. It therefore follows that, to avoid duplication, age assessment will need to be integrated into wider purposes and procedures. In recognition of this the Guidance notes the importance of *Getting it Right for Every Child* and of considering age assessment within its wider implementation.

The Guidance describes both the key components of a general approach and a possible structure for collating and managing the information gathered. It aims to encourage the gathering of types of information that may generally indicate a probable age and the specific interpretation of this information in the context of the cultural background and life experiences of the individual.

It assumes that those conducting an assessment will draw heavily on supporting resources, some of which are listed in this document in the Bibliography and Resources section. This will help ensure that assessments are constructed around the young person and take proper account of their individuality and background as well as their general needs and capabilities.

Some key contextual factors are considered in the first three sections of the Guidance which look at:

- Scope
- Law and Policy
- *Getting it Right for Every Child*.

These are intended to provide information about wider factors that determine or influence how age assessment should be understood and conducted.

The sections on the assessment process places tasks and actions under six headings, listed below, and these describe a possible assessment pathway:

- Prior to the assessment
- Planning and preparation
- Information gathering
- Analysis
- Initial conclusion
- Final conclusion

Reporting and action planning is addressed in the section:

- Reporting and Further Actions

This looks at communicating findings about age and identified need.

The final part of the main body is:

- Bibliography and Resources

This section is a list of texts and electronic resources that may assist managers and workers by providing information about aspects of law, policy, practice and country and cultural factors.

The appendices to the Guidance include additional information on key points referred to within it and also some documents that might be used as templates.

Readers will note that some of the suggested texts refer to general assessment practice relating to young people in need. This reflects an important assumption in the Guidance, namely that the same knowledge, skills and understanding, which underpins good assessment practice with young people in need, is also required when working with young asylum seekers. This should however be supplemented with additional knowledge relating to:

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

The Guidance is primarily written for managers, social workers and other specialist staff who may be asked to undertake an age assessment. The term 'specialist staff' does not solely refer to staff who are dedicated to carrying out age assessments but includes those who have special knowledge, skills or experience derived from working in a related field that has relevance to the process of age assessment of young asylum seekers. This might include someone who has worked with older refugees or provided support or care to young asylum seekers. Knowledge and experience of work relating to child protection and vulnerable young people will also be of value.

Best practice would suggest that two workers will undertake the assessment and that at least one will be a qualified social worker, registered with the Scottish Social Services Council or, in any situation where an independent social worker from outside of Scotland is involved, with the Care Council for Wales; the General Social Care Council (for England); the Northern Ireland Social Care Council. Any person carrying out an assessment will be expected to have appropriate experience, knowledge and understanding and have undertaken relevant training. It should be noted that in a recent Scottish case (TL[Assisted Person] NO2 [2011] CSOH 196) an assessment carried out by one caseworker was held to be competent. However, in that case the views of other professionals involved with the person assessed were taken into account. It is important that any decision be based on the views of more than one person. Having two assessors ensures that this happens.

Local authorities will wish to ensure that the staff members allocated the task of conducting an age assessment have the appropriate knowledge and experience that equips them to carry out a competent and defensible assessment. Defining precisely what these levels of knowledge and experience might be is not straightforward. However this Guidance notes that one particular local authority, which has extensive experience of conducting age assessments, is able to offer inexperienced staff from other local authorities, opportunities to shadow assessments.

Shadowing, when combined with formal training prior to first carrying out an assessment, and possibly consultation or mentoring during the assessment process, would be of value to those staff new to the task. This may be something local authorities wish to consider. Assessors should make sure the person being assessed gives written consent beforehand.

Much of the information which is necessary to assess age is also required in an assessment of need. Similarly there is overlap between the tools and methods used to carry out an effective assessment of need and those appropriate to the assessment of age (e.g. the National Practice Model). Whilst the assessment of age is the primary focus here it is suggested that assessors, in keeping with the approach described in *Getting it Right for Every Child*, make best use of the assessment to allow them to provide appropriate support for those young people who are assessed as being a child or a vulnerable adult.

The National Practice Model provides the foundation for identifying concerns, assessing needs and risks and making plans for all children. Guidance on the application of the National Practice Model can be found on the GIRFEC website (<http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright>). Specific points relating to the importance of the *Getting it Right for Every Child* Framework are also made later in the Guidance.

This Guidance is not a stand-alone document. The process for carrying out age assessments will sit in a wider local framework of general procedures relating to children and young people. These will relate to matters such as Child Protection, Looked After Children, Personal Data Sharing, Service Level Agreements etc.

This Guidance should contribute to a wider framework of local arrangements to support practice in conducting age assessments. Such a framework might in future include:

- a training strategy for social workers and others, concerning both age assessment and general work with young asylum seekers and refugees, to ensure that age assessments are carried out by staff who meet the legal requirements.
- arrangements to provide access to a suitable pool of staff who have experience in conducting age assessments and/or considering how staff can develop such experience before assuming responsibility for their production.
- opportunities for: continuous professional development through access to research; practice sharing through professional networks that include statutory and voluntary sector agencies; the provision of inter-professional advice.
- supervision arrangements that allow for reflection regarding assessment content and analysis and fit with assessment timescales.
- the development of good practice arrangements concerning the identification, accreditation, use and support of interpreters.
- effective joint working arrangements, including data sharing agreements, between involved agencies, (particularly between health, educational and social work agencies) that allow for multi-agency involvement and timeous responses.
- quality assurance arrangements that provide general oversight of assessments and that identify areas for development and review.
- links to independent scrutiny bodies.

The framework of arrangements concerning age assessments is still developing and there are a number of areas of work that are on-going. It is hoped that further information and guidance will be made available in the future which relates to:

1. Arrangements for the use and support of interpreters
2. The role of the appropriate adult
3. Learning and development programme for staff
4. Data sharing
5. Expert contributions to assessments (NB the term 'expert' is used here to refer to anyone with relevant professional expertise, such as a medical practitioner or educational psychologist, who has had cause to come into contact with the young person and might be able to contribute information to an assessment. This is different from specifically commissioned developmental assessments which are not the subject of this Guidance).

### Law and Policy Context

This section notes some of the legal and policy drivers that determine how both local authorities and UKBA should approach the issue of age assessment.

### Law

Currently there is no statutory guidance which sets out how age assessments should be conducted. Evolving practice has been largely based upon interpretations of English case law that has resulted from challenges to decisions. Judgements to date have not yet provided a sufficiently comprehensive and settled framework of law which would answer all of the significant questions about how age assessments should be carried out and it is not expected that case law will ever develop to the degree that all questions will be answered. There is therefore always continuing need to exercise judgement in interpreting aspects of case law, to be aware that there are differing views and that practices may still be challenged.

The law relating to asylum and age disputes can be complex and, whilst asylum and immigration law applies across the UK, legislation relating to children's welfare varies. Until recently the case law in this area was based on challenges in the English courts against English local authority decisions under English statute. These English cases are a good starting point in understanding the minimum requirements for a competent age assessment and are mentioned later in this document. It should be noted that none of the recent Scottish cases disapproved of the general principles set down in the English cases.

In terms of immigration law the duties relating to the treatment of young asylum seekers, who may be under the age of eighteen, are set out in the Borders, Citizenship and Immigration Act 2009. Section 55 of that Act places particular duties upon UKBA in relation to children and statutory guidance has been published which sets out the arrangements by which their welfare should be safeguarded. This aims to achieve consistency with Section 11 of the Children Act 2004 (which applies in England and Wales). Section 55 however applies to UKBA's responsibilities throughout the UK.

In Scotland the relevant statutes that refer to the safeguarding and support of children and young people are the Protection of Children (Scotland) Act 2007 and the Children (Scotland) Act 1995. The latter places a duty upon the local authority to safeguard and promote the welfare of children in their area who are in need (Sec 22 (1) a). This encompasses asylum seeking children and where a young person has been found to be under eighteen years of age they are eligible for supports. However this is a rapidly evolving and dynamic area of law and local authorities will need to keep abreast of changes to case law and legislation.

Currently asylum seekers whose age is in dispute and who are being treated as children in the interim are generally accommodated under Sec 25 of the Children (Scotland) Act 1995. It is suggested that local authorities should be mindful of the potential complexity concerning both the short and long term implications that arise from looking after young people whose ages are in doubt. The age assessment and placement and support planning processes should work closely together to manage these.

Age assessment processes (particularly in England) have been subject to considerable scrutiny. This has had a significant effect in influencing how assessments should be conducted. Three particular judgements concerning the process of age assessments are highlighted below:

#### 1. [The Queen on the application of B v the London Borough of Merton \(2003\) EWHC 1689 \(Admin\) \(14 July 2003\)](#)

This judgement referred to the workings of the Children Act 1989 however its substance is considered to apply to the equivalent Scottish legislation (The Children (Scotland) Act 1995). It establishes:

- a duty on local authorities to assess age where an individual may be a young person entitled to support under that act. Local authorities cannot simply accept the assessment of the Home Office (UKBA) or use it to form the basis of their assessment but must conduct their own.

- local authorities must give adequate reasons for a decision to view an applicant claiming to be a child to be over eighteen.
  - local authorities that doubt the veracity of an applicant must give them an opportunity to explain any discrepancies and/or errors.
  - where an interpreter is required it is greatly preferable for them to be present during any interview. Some exceptions may be made but every effort must be made to provide clear and accurate interpretation.
  - the decision maker must make clear to the young person the purpose of any interviews.
  - where the assessing worker is unfamiliar with the cultural background of the young person they must keep this in mind during the assessment and take steps to avoid assumptions that lead to misinterpretation of information.
  - the level of enquiry needed in assessments will vary from case to case depending upon individual case circumstances.
- It is essential that assessments are made by experienced trained workers and that all the safeguards to ensure fairness are in place.
  - Although local authorities or the Secretary of State cannot completely disregard reports from paediatricians and should give consideration to any medical report received, it is for them to decide how much weight to attach to it. Regard should be given to case law in relation to paediatricians and other experts' opinions.

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

Applicants should:

- be given a proper opportunity as part of the interview process to respond to any points which the interviewers considered adverse to the applicant's case prior to a decision being given.
- applicants should have the opportunity to have an appropriate adult present at the interview with them.

With regard to the latter point it is understood that, whilst a young person can decline to have an appropriate adult present during interview their involvement is likely have positive benefits. It encourages transparency in the assessment and helps to ensure that issues and clarifications are dealt with at the time and so are less likely to become the subject of dispute later on. The Guidance therefore supports local authorities in encouraging young people to make use of Appropriate Adults.

There may be a range of individuals that are capable of undertaking the role and advice concerning the requirements of the role and the specification of persons capable of carrying it out may be made available in future. This Guidance may need to be updated in future in line with developments. In the meantime local authorities will need to keep up to date with relevant case law.

It should be noted that case law regarding age assessment and related matters continues to develop. Case law is less developed in Scotland therefore regard should be had to English case law which is more developed.

### 2. (1) *A v LB of Croydon & Secretary of State for Home Department (Interested Party)*; (2) *WK v Secretary of State for Home Department & Kent CC* [2009] EWHC 939 (Admin)

The judgment states that there are no reliable means by which an exact decision on age can be reached and any decision on age requires the exercise of judgement. Amongst other things it goes on to note that:

- Unless satisfied that the local authority's assessment has failed to take account of some material evidence or new material which identifies a flaw in the determination, the Secretary of State will rely on that assessment.
- (With regard to medical reports) Local authorities have or should have developed an expertise in the area of age assessments. The court case states that a report from a paediatrician cannot generally attract any greater weight than the observations of an experienced social worker.

With regard to policy which has a general relevance for social workers undertaking work with asylum seeking young people the following should be noted:

The 'National Guidance for Child Protection in Scotland' (2010)

(<http://www.scotland.gov.uk/Publications/2010/12/09134441/21>) describes the additional risks and vulnerabilities experienced by young asylum seekers and provides practice guidance in relation to their treatment by statutory and voluntary agencies.

Similarly, 'Safeguarding Children in Scotland who may have been Trafficked' (2009) sets out national guidance in relation to such children.

Points concerning the applicability of the Getting it Right for Every Child approach are set out later in this guidance.

Local authorities working with young asylum seekers will need to coordinate their arrangements with UKBA practices relating to age disputes and the processing of asylum claims. UKBA duties and procedures in respect of young people are described in:

- 'Asylum Instruction on Assessing Age'

(<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>)

This Asylum Policy Instruction to UKBA staff sets out the procedures to be followed where an asylum applicant claims to be a child, but where there is lack of definitive documentary evidence to prove this is the case.

- 'Processing an Asylum Application from a Child'

(<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/processingasylumapplication1.pdf?view=Binary>)

This instruction sets out the policy and procedures for UKBA staff to follow when dealing with an asylum application from a child.

- General guidance setting out UKBA practice relating to asylum support can be accessed at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/asylum-support>

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

Assessment practice will be significantly affected by the implementation of the *Getting it Right for Every Child* (GIRFEC) approach and the National Practice Model.

*“Getting it Right for Every Child threads through all existing policy, practice, strategy and legislation affecting children, young people and families”<sup>1</sup>*

A key purpose of establishing a young person’s age is to determine what type and level of support they may be entitled to whilst their asylum claim is investigated and considered. Determination of age is also important with regard to both safeguarding the young person and those with whom they are in contact. This is particularly the case where local authorities aim to ensure that the young person is accommodated with others of an appropriate age and are attempting to balance issues of potential risk and need for support.

The finding will also determine how the young person will be treated with regard to investigating and processing their asylum claim. It will be a particularly important factor where an asylum claim is based on grounds that relate to child persecution.

Factors that are relevant to determining age will also be relevant in a wider assessment of need. This suggests that there is value of taking a parallel approach during the assessment and that this would be consistent with the GIRFEC ‘component’ relating to the good practice of streamlining planning, assessments and decision making processes.

Age assessment therefore sits within the broad spectrum of support provided to children and young people and the principles of GIRFEC are as applicable to young asylum seekers as to any other group. However in addition, the potential vulnerabilities of this group, coupled with their very particular additional needs and the consequential challenges for professional’s practice, make certain aspects of the GIRFEC approach especially relevant. Some are highlighted below:

1. Use of the supporting GIRFEC tools and materials relating to assessment of need will also support the improvement of assessments of age. Judgements have indicated that it is hard to see how an asylum seeking child cannot be a ‘child in need’.
2. The opportunity is there to consider age assessment along with other services to young people when relevant agencies are reviewing their culture, systems and practice as part of implementing GIRFEC values and principles. The ‘common platform’ of values relating to ‘a whole child approach’, ‘diversity’ and ‘building a competent workforce’ particularly apply.
3. As part of the above, ‘mapping’ exercises, (referred to in the advice on GIRFEC implementation planning), provide an opportunity to consider how well integrated are general services to both young asylum seekers and refugees.
4. Good quality training, opportunities for peer support and access to specialist knowledge and advice in the field of working with young asylum seekers will help practitioners to implement the National Practice Model, in particular the use of the My World Triangle, when working with this group.
5. Application of the Core Components, particularly those relating to information sharing, joint working and having a confident, competent workforce, will assist local authorities to meet the requirements of case law concerning practice standards in conducting age assessments.

<sup>1</sup> Scottish Government (2010) A Guide to Implementing Getting it Right: Messages from Pathfinders and Learning Partners, Edinburgh, Scottish Government

6. GIRFEC's differentiated approach to implementation provides a method to identify how practitioners, operational managers and strategic managers can collectively improve services (including age assessment) to young asylum seekers.
7. Adopting a 'whole child' approach across statutory and voluntary agencies will increase the quantity and quality of information and analysis that can be used in age assessments through better sharing of information.
8. Where concerns exist that a case may be one of a trafficked child this is a child protection matter and will have priority over the age assessment task. It should be noted however that there may be information collated in the process of a trafficking inquiry which may be relevant to determining the issue of age.

This section notes the principle assumptions and key points that underpin the assessment approach set out in the guidance:

1. The very fact of an age dispute affirms the possibility of the applicant being a 'child'. The process has been set up with protection on the basis that the assessed person may be a child. It would be inappropriate therefore, for example, to accommodate the person being assessed in adult accommodation during the process of assessment.
2. Current interpretation of law and UKBA policy suggest that local authorities should not be involved in age disputes either where the young person is obviously a child or where the young person's physical appearance and demeanour strongly suggests that they are significantly over the age of eighteen years. In the great majority of cases age assessment will apply to those young people who are considered borderline and their age is in doubt. There may be situations where persons who appear to be significantly over 18 insist on an age assessment. In such cases paragraph 38 of Merton should be considered very carefully. It may be that the local authority is justified in finding such an applicant is an adult in the absence of an acceptable explanation.
3. When someone presents for an age assessment it would be wrong to assume that the applicant is an adult. The test is that there is no assumption that the applicant is an adult or a child. In an obvious case the appearance of the applicant alone will require him to be accepted as a child or conversely justify his/ her being determined to be an adult, in the absence of compelling evidence to the contrary. If the applicant has previously stated that s/he is over 18 that previous statement may be taken into account in the absence of an acceptable explanation.
4. Some of the information required to assess age will also be relevant to assessing need. Assessors should keep this in mind in order to minimise any potential duplication of processes. The primary task is that of assessing age but assessments of age and need are not entirely discrete areas.
5. Ideally age assessments should be carried out 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 assessment. Assessment tasks should be divided on the basis of who is best placed to undertake them. There may be occasions where it is thought appropriate for both assessors to be qualified social workers (this might include cases where the relevant operations manager believes that the issues in the case warrant the exceptional use of two qualified social workers or where the local authority wishes to increase their pool of experienced qualified social workers). A recent Scottish decision upheld an age assessment carried out by one worker. This should not be taken as authority for the proposition that one assessor is enough. In that case the views of several people with experience and who had observed the person being assessed were taken into account. More than one informed opinion led to the conclusion. A conclusion based on the views of one individual would probably not survive scrutiny. Having two workers carrying out an assessment will ensure that there are two independent minds making an assessment and for that reason is recommended.
6. Best practice would suggest that the second assessor should also have experience and training relating to age assessment and in working with this client group. It is the responsibility of the local authority to ensure that the assessors have the relevant knowledge, experience and skills for the task.
7. Arrangements for carrying out age assessments should include how to manage new information that comes to light after the assessment has concluded and how this would be reviewed. It should be possible to take new information into account and for opinions about assessed age to be revised.
8. The young person, any legal representative on behalf of the young person and the involved 'appropriate adult' should be made aware of the purposes of the assessment. Workers should record whether and how the young person has indicated that they have understood this.

9. If a young person decides not to cooperate with the age assessment process then the assessors will be expected to continue to undertake the assessment, albeit noting the constraints and limitations that result.
10. Where assessors wish to seek information from other agencies as part of the assessment they should ascertain if those agencies require the young person's specific consent for this and if so request it.
11. English case law indicates that it is best practice to offer an appropriate adult to sit in with the young person during any interviews with assessors. If the young person chooses to have an appropriate adult present, then an appropriate adult should be present at all interviews with the young person. The local authority should consider whether it would be good practice to provide an outline description of the role and responsibilities of the appropriate adult to the young person and their legal representative. There may be benefit in preparing written material that can be given to the young person and explained through the interpreter. Assessors should ensure there is proper discussion about the role of the appropriate adult. If a young person declines to have an appropriate adult present then this and their stated reasons for their decision should be recorded.
12. Once the assessment findings have been discussed with the young person, and the assessment concluded, a report will be produced by the assessors and provided to the young person, their representative and UKBA. The suggested format for this report has been developed by a multi-agency working group as part of an information sharing protocol. The suggested report template is appended to this guidance.
13. The outcome of an assessment of age will have important effects upon how an asylum claim will be managed. The assessment of age is a separate process from that of determining an asylum claim and so safeguards have been built into the information sharing protocol to ensure that the young person's rights are not prejudiced by the sharing of the age assessment report between key agencies.
14. The above mentioned information sharing protocol will accord with the Data Sharing Code of Practice (ICO) and it is suggested that local authority Data Manager is made aware where a local authority chooses to adopt its use.
15. Under the Data Protection Act, the Human Rights Act and the UN Convention on the Rights of the Child local authorities must ensure that young people's privacy and information rights are not breached.
16. Age dispute cases will regularly involve young people who do not speak English or, where English is a second language, it is often poorly understood and spoken. The quality of the assessment will therefore be significantly affected by how well interpretation and translation services are used. The Guidance assumes that local authorities will make proper advance arrangements concerning interpreters (including requirements relating to their suitability and selection) and support staff in their use. A number of organisations have developed codes of practice that may assist. Some suggested references are noted in the Bibliography and Resources section of this Guidance.
17. It is possible that there will be exceptional circumstances where it proves very difficult to identify an interpreter fluent in the young person's language. In such cases the local authority concerned may wish to contact Scottish Refugee Council, (who may be able to provide assistance), and to extend the assessment period so that all reasonable steps to obtain appropriate support can be taken.

18. Many of the young people arriving in the UK and claiming asylum come from countries with very different practices regarding official documentation and the recording of age and identity. In some age is considered to be relatively unimportant and in others conflicts or persecution mean that it is irrelevant to the struggles of everyday life. Documentation can be stolen or lost on the journey to this country and in order to survive it may be necessary to deceive or mislead through using false documentation. Sources of information therefore will be limited and, in the absence of reliable and relevant documentation, there will be greater reliance upon information directly obtained from the young person themselves. This emphasises the point (noted at 17) concerning the importance of communication. Assessments will be dependent upon accurate interpretation which picks up the nuance and detail of what is said as well as the basic 'factual' content.
19. Assessors should explicitly check whether an interpreter is required and that the young person understands that an interpreter can be provided. Both the offer and the response should be recorded.
20. It is also important to recognise the potential impact upon an interpreter that can result from interpreting for a young person who may have experienced highly traumatic events. Similarly there is also a need to ensure that there is a proper understanding of the requirement for confidentiality and objectivity in all cases.
21. 'Bias' is an issue to be aware of in all assessments and this is particularly true in relation to age assessments. Conscious and unconscious attitudes concerning asylum and race, organisational cultures and wider societal attitudes towards immigrants and asylum seekers can all influence how information is collated and understood. As noted earlier there may sometimes be inconsistencies in a young person's account and workers must test their interpretations to understand their significance and ensure that a culture of disbelief does not develop. Acknowledging the potential for bias may not prevent it but it at least allows it to be considered. The use of supervision and the adoption of a 'questioning of assumptions' approach may assist. Also local authorities should ensure that internal oversight arrangements allow supervisors the opportunity to review and confirm the assessment before it is signed off by the agency.
22. It is necessary to ensure that the assessors have access to and use relevant information concerning the young person's country and culture of origin and ethnicity both in deciding what information to seek and in its analysis. This guidance aims to reaffirm the ecological approach underpinning the *Getting it Right for Every Child* framework.
23. Assessments should not depend upon impressions formed solely on physical appearance.
24. Assessments should include a minimum of two interviews, staged several days apart. Interviews should be planned to take account of the young person's needs and capabilities at these times. The assessment should aim to be conducted over a period of twenty days to allow the young person time to become accustomed to their surroundings and to develop some trust and sense of security. (This is similar to timescales that apply to other social work assessments). There may also be circumstances that require a longer assessment period. Reasons for this might include the ill health of a young person, trafficking inquiries, unexpected or unusually difficult communication problems or the possible existence of learning difficulties.
25. Assessors should record the process and duration of interviews.
26. Given the evolving body of social work practice, case law in this field and the potentially adversarial nature of the subject it is quite possible that at some point the assessment process used and its conclusions will come under legal challenge and scrutiny. Given this it is important that assessors are able to evidence and account for their conclusions. This should involve identifying relevant information, indicating how it is interpreted, what weight is given to it and what conclusion is drawn.

27. Assessors should be confident about making judgements within their own sphere of expertise but should also understand where a different professional opinion would be helpful. Similarly where information is provided by other parties the assessors should be aware of the basis of that information, including how experienced or qualified that contributor might be, as this would affect the weight accorded to it.
28. It is possible that a specialist opinion may in some cases be required with regard to matters concerning the young person's ability to provide information and to meaningfully respond to questions. This would be the case where there were reasons to suggest that a young person may have a learning impairment, be suffering from a condition that affects their memory or have a psychological or psychiatric condition that affects their ability to properly participate in the assessment. Whilst experienced social workers may recognise indicators that raise such a concern it will be for an appropriate professional to provide an expert opinion on the matter if that is thought necessary.
29. Medical information can play an important part in contributing to age assessments but physiological assessments have wide margins of error and so there are caveats around what weight medical evidence should have in an overall assessment. Coupled with this there are ethical considerations which will have a bearing upon how and when medical experts, such as paediatricians, may become involved. Medical information, where available, is best used by being taken into account as one part of a 'Merton' compliant social work age assessment. Local authorities may wish to discuss any issues arising from this area with their local Child Protection Committee or *Getting it Right For Every Child* implementation group.
30. The assessment will aim to be holistic and to gather information from all relevant sources. It should utilise the information and views of agencies that have a relevant involvement with the young person or are able to provide a specialist opinion. This might include health professionals, educational psychologists, teachers, care and support staff, foster parents or others who have some relevant knowledge. It is particularly helpful to include information that is drawn from contacts in different types of setting. Deciding who should be asked to contribute and how will be a decision for the assessors when they are planning and reviewing the progress of the assessment. It would also be a point of general good practice to ask the young person who might be able to assist.
31. Assessors should seek to have access to any relevant records that may assist them as well as noting the opinions that other professionals may have drawn from these records.
32. The roles and tasks of the two assessors can be divided and there should be flexibility in matching task to individual (for example the importance of the gender of the interviewer may not be immediately apparent) and assessors will be required to exercise judgement when deciding how to agree responsibilities.
33. Some issues relating to staff selection may require balancing a range of competing factors. Such weighting is likely to involve considering the importance of staff selection in producing a robust assessment alongside practical matters of staff availability and time.
34. Both assessors should be present during interviews with the young person and when analysing the information gathered. There should also be explicit agreement about managing recording arrangements. Records do not have to be verbatim but should be sufficiently full to include all significant points. Issues concerning accuracy or veracity should be raised as close to the time as possible so that clarification can be sought and noted by the assessing workers and the appropriate adult.

35. Assessor's notes of interviews constitute part of the young person's case file and access to the file is governed by legislation (The Data Protection Act 1998) and local authority policies relating to the management of information. Whilst there is no immediate requirement for notes to be shared it should be understood that a request for information under the Data Protection Act 1998 may be made by the young person and their representative, also that records may be examined as part of any later judicial review process.
36. The lead worker has responsibility for ensuring that the assessment is suitably planned. Both assessors have equal responsibility with regard to stating an opinion concerning the assessed age of the young person. Where there is disagreement between workers this should be noted in the assessment.
37. If assessors disagree about the assessed age or experience a significant difficulty in conducting the assessment then they should draw this to the attention of their manager and seek advice.
38. The agreed roles and tasks of the two assessors should be noted in the assessment plan.
39. The potential vulnerability of young asylum seekers (due to communication issues, possible trauma, absence of familial supports and the general effects of dislocation) means that they depend particularly upon having a fair and effective assessment process. It should be ensured that there are safeguards and independent supports built into each assessment to make certain that young people's rights are understood and protected. It should be noted that a high level of vulnerability in a young person does not necessarily equate to that person being a child but it does mean that particular care should be taken so as to ensure that a fair and defensible assessment is conducted.
40. The guidance aims to promote best practice. It also aims to be realistic. The timescales involved in age disputes, coupled with very limited resources, present significant challenges. However for many local authorities it will be a relatively uncommon requirement and given the significance of age assessment for the young person at the centre it is important enough to justify high priority.
41. Specialist information and opinion may play a part in an assessment. Social workers should aim to include this where possible and local authorities may wish to consider developing suitable arrangements to support this. In deciding what specialist involvement might be necessary there is value in considering a tiered intervention approach based upon the presenting situation and statements from the young person. Such interventions should be reasonable and proportionate and based upon an indicated need. It is understood that accessing specialist services may extend the timescales of the assessment. Decisions concerning this should aim to seek a balance between ensuring that the evidence underpinning an age assessment is 'good enough' while avoiding undue delay.
42. There may be special issues in cases where siblings or other relatives are being age assessed (both in terms of their assessment and the nature of their support). Each young person should be assessed in their own right but there may be benefit in considering how information about one relates to another. The potential benefits and problems that can arise in such situations however will require specific and extra consideration.
43. As part of any age assessment assessors should ask where and when the young person last had contact with family members and whether there are any family members living in the United Kingdom.

The following sections set out the assessment framework.

<p>Allocation of staff</p>	<ul style="list-style-type: none"> <li>• Allocation of two assessors, one of whom should be a qualified social worker registered with the Scottish Social Services Council or UK equivalent bodies. (The workers should have experience relevant to undertaking assessments of young people in need and in matters relating to working with people from different countries and cultures)</li> <li>• The social worker should be identified as being the lead for the purposes of the assessment and may be considered to be the “lead professional” for the purposes of the case</li> <li>• The allocated assessors should have had training relevant to age assessment and working with young asylum seekers/refugees</li> <li>• Selection should take account of gender issues, and the potential for the young person to have previously experienced violence and sexual exploitation</li> </ul>
<p>Contextual information</p>	<ul style="list-style-type: none"> <li>• Identify sources of country and ethnic/cultural information</li> <li>• Ascertain how safe and possible it is to obtain relevant information from sources within the country of origin</li> </ul>
<p>Child Protection</p>	<ul style="list-style-type: none"> <li>• Explicitly consider and act with regard to any immediate presenting child protection/trafficking issues in accordance with procedures and guidance</li> </ul>
<p>Resources</p>	<ul style="list-style-type: none"> <li>• Agree a suitable time and location for the interviews being mindful that these should be conducive to good interview practice with children and young people.</li> <li>• Actively consider any issues regarding trafficking concerns, hunger, tiredness, health, communication needs, sense of dislocation and general emotional state that may have a bearing upon the above point</li> <li>• As in most cases the interviews with the young person will by far provide the basis for the age assessment it is important to ensure that they are managed in such a way as to provide the necessary quantity and quality of information</li> </ul>
<p>Notification</p>	<ul style="list-style-type: none"> <li>• Advise Scottish Refugee Council of the young person’s presence and that an age assessment is to be undertaken (to assist with monitoring statistics and to provide support as required)</li> </ul>

<p>Fair processing of personal data</p>	<ul style="list-style-type: none"> <li>• Ensure that arrangements for the processing of sensitive personal data are in place and that these are understood by the young person</li> <li>• Where consent is required ensure that the young person actively and knowingly shows consent and record this</li> <li>• Remember that consent can be subsequently withdrawn</li> </ul>
<p>Communication</p>	<ul style="list-style-type: none"> <li>• Identify the young person's communication needs</li> <li>• Consider the young person's ability to give informed consent</li> <li>• Arrange appropriate interpreting and translation services and wherever possible arrange for the interpreter to be physically present during interviews</li> <li>• Identify and anticipate any other issues that may affect communication</li> <li>• Prepare a statement of purpose to be given to the young person verbally and in writing (with any necessary supplementary explanations)</li> </ul>
<p>Streamlining arrangements</p>	<ul style="list-style-type: none"> <li>• Ascertain (as far as possible) the schedule of forthcoming meetings, hearings, interviews etc that will require the young person's involvement</li> <li>• If in the course of preparing for the interview assessors become aware of the young person having any special requirements (for example something related to a medical condition) they should seek and record the young person's permission to pass on that information to UKBA and any other involved agency who might also need to take this into account when managing their own interview arrangements</li> <li>• If medical examinations have been arranged or are considered check if information can be used to assist with age assessment (NB seek informed consent from the young person)</li> <li>• Enquire regarding any personal documentation held by the young person</li> <li>• Identify potential contributors to the age assessment, advise them the wish to involve them (and in what capacity) and agree permissions and arrangements</li> </ul>
<p>Contextual tasks</p>	<ul style="list-style-type: none"> <li>• Undertake preliminary reading regarding country of origin, cultural and ethnic and religious background</li> <li>• Identify any religious and cultural issues that may have a bearing on the assessment process (e.g. if a young person is fasting avoid interviews late in the day)</li> </ul>

Tasks and responsibilities	<ul style="list-style-type: none"><li>• Allocate and note tasks between workers</li><li>• Agree and note recording arrangements (including key points relating to the interviews with the young person and between the assessors)</li><li>• Agree and note arrangements in respect of the Appropriate Adult</li></ul>
Core questions	<ul style="list-style-type: none"><li>• Assessors may wish to prepare a set of 'core' questions in advance based upon the individual case</li><li>• Core questions may include tailored 'open' questions that encourage fuller answers such as descriptions or narratives.</li></ul>

Assessment information	
Pen picture of young person	Brief physical description/visual impression but also noting personality, emotional state, concerns and likes and dislikes; note of any particular immediate concerns concerning self and/or others; general health and wellbeing
Areas of child protection, vulnerability or trafficking concern	Any presenting information that suggests the young person has particular vulnerabilities, is at risk or may have been trafficked; if appropriate comment upon how this might relate to the age assessment (e.g. whether this could affect the young person's attitudes, behaviour or presentation)

Documentary evidence	
Documentary information	Official documentation relating to identity, nationality and age (comment upon credibility if appropriate); personal documentation relating to family and social identity (e.g. letters, photographs)
If absent – why?	It may be relevant to refer to country information and/or (if lost or stolen) to note the young person's account of how this happened
Significant personal possessions	Articles, including clothing or jewellery that might signify an age or social status or mark a rite of passage

Physical and personal presentation	
Ethnicity	(By conventional category)
Facial characteristics	Hair; skin lines, tone, folds and weathering; Prominence of 'Adam's apple' in males; Facial hair/shaving
Growth	Height, build
Voice	Tone; pitch; expression
Demeanour and interaction	Attitude towards assessing social worker and other authority figures; eye contact; Choice, if there has been a choice, of clothing and how worn; mannerisms; body posture/language
Identifying marks	Marks or scarring and accounts for these; tattoos
Sexual development	Whilst the assessors will not undertake any examination themselves they may be able to source information from elsewhere

Social and emotional presentation	
Interaction with others	e.g. adults, young people and children; formal and informal situations; with people in or perceived to be in authority; males and females; types of relationships observed and described; ability to make friends; social roles; language skills (including vocabulary and congruence with other information presented)
Confidence and identity	Sense of self and knowing their own mind; also consider possible factors such as: deference; assertiveness; social skills; maturity and pseudo-maturity; watchfulness/hyper vigilance; naivety
Gender, sexual relationships and identity	Gender role; sexual orientation and its cultural significance; marital/relationship status (note any significant issues about marriage practices e.g. forced); cultural expectations; circumcision
Preferred activities	Related to age and stage
Expressed feelings	About self, key others; current and past situations; vocabulary; conceptual content; introversion/extroversion
Type and level of expression	Withheld, vocalised, acted out; level of emotional control
Separation and loss issues	Grief; cultural dislocation; thought patterns; physical signs; behavioural signs

Presenting Health Needs	
Physical	Optical; aural; dental; sexual; general (consider circumcision/mutilation issues if appropriate) NB social workers are not expected to offer an opinion outwith their professional competence but may highlight a presenting concern and, with the young person's consent, refer him/her to a health professional  Well or poorly nourished appearance
Mental	Trauma; depression; self harm; eating; sleeping; emotional control; flashbacks; nightmares; dissociation

Personal history	
Personal chronology	Key events/markers and memories; Young person's grasp of the concept of time and how expressed
Location	Types of accommodation; moves from to where; neighbourhood/community description; wider environment issues
Education	Where educated (names and addresses if possible); age started; subjects studied and stages reached; qualifications and awards; certification and recognition; gaps in education; number of years in total; formal or informal education  Relevant contextual information (from an independent source) about the education system in the country of origin (if school years are being considered as age markers check first about how children progress through year groups)
Health	History of significant health matters e.g. illnesses, accidents, treatments, operations; FGM and circumcision; significant stress and nutritional factors; menarche and time since onset
Work	Employment history; duration and location; paid and unpaid; location and type; choice or forced
Leisure	Preferences; opportunities; who was involved
Role(s) in family	Provider; carer, level of authority/responsibility; have they lived alone/outwith the family
Peers	Who; ages; relationships; contexts; how would they describe the young person
Autonomy	Degree of independence and self direction; personal authority and decision making  Ability to manage money; self care; domestic skills; work with agencies/others; recognise danger; stay safe
Key events, rituals and rights of passage	Possibly linked to chronological age, sexual development, changes within family structure
A typical day at home	What would it look like? Has this changed over time?
Identity	Talents; successes; external or internal attribution; personality; values/conscience; cultural identity; sexual identity; race; caste; tribe; religion (Issues arising from these)
Hopes for the future	Ambitions; sense of personal potential; priorities; ability to think into the future; abstract thought

Identity	Likes/dislikes; achievements; pride/regrets
Reported age	State what this is, how it is known and how (if at all) 'birthdays' are marked; note any confusion or apparent discrepancies in previous accounts to date, reasons cited for this and relevant explanations or other factors
Concept of 'age' in young person's country and culture of origin	Recording/administrative practices in country of origin and variations in practice Legal requirements and arrangements relating to age in country of origin Cultural practices relating to age Demographic issues relevant to the stated country of origin/ethnic group

### Family and community history

Household composition	Who lives/lived there; family or other; note use of mother, father, aunt, uncle may not denote relatives by blood or marriage
Genogram	Include supporting information about the kinship models and practices that apply in the culture of origin and how this may affect understanding of the young person's place in the family. Note that the subject of family may be painful and difficult, requiring pacing and sensitive judgement. In drawing out information include, where possible, the ages of family members; check that terminology is understood; check for key figures having more than one partner (consecutively or concurrently); numbers of, and gaps between, siblings
Eco-map	Can be used to create a social map of the key places; activities and relationships in the young person's life  Identify whether there are any family members living in the UK  Identify when the young person last had contact with family members
Family history narrative and meaning of key events	Consider the use of a 'life graph' to note ages or dates that may offer date 'markers'; family and community events (either one off, e.g. marriages, births, or recurring annual events such as religious festivals; family origin stories or meaning of family names
Key cultural factors	Religious beliefs, values systems, community expectations; caste, tribe, sect, gender, age or class issues; ritualistic or rites practices that may be relevant

Personal and Family role in community	Status; relationship to others
Personal and family political activity	Views; membership of organisations; roles and activities; consequences of these (past, present, future)

### The process of coming here

The decision to leave	Trigger(s) to leave; type and degree of choice made; how planned and enacted; Implications for self and others in leaving
Survival needs and behaviours before and during journey	Strategies and behaviour necessary for the young person to survive the situations that pertained before and during their journey. This may link to experiences of violence, (perpetrator and/or victim) drugs, commercial and sexual exploitation. Any such experiences are likely to affect the young person's presentation and perceptions of age
Timeline and stages of journey	Duration of journey, stops; markers that help pinpoint time intervals and dates

### Queries concerning information

Significant gaps	Are there gaps in the young person's account that are unexpected or incongruous? How does the young person respond to this being noted? Are there possible explanations?
Significant inconsistencies in accounts	Are there aspects of the account which stand out as being highly unlikely or otherwise implausible? Are there possible explanations for this?
Issues of veracity	<p>Queries regarding documentation; If the young person is considered to have deliberately lied, how do they respond to this being noted? Are there possible explanations for any untruths other than a wish to deceive regarding their age? These should be noted</p> <p>(NB It is important to raise and allow the young person an opportunity to respond to any concerns about inconsistencies or doubts about veracity. This should be done in the presence of any 'appropriate adult' involved). It is also important to be aware of possible areas of miscommunication)</p>

Analysis of information	
Key evidential points	Note of key patterns or items of information that are regarded as significant in indicating the young person's age; include contradictory indicators; include a note of any documentation that is relied upon
Key interpretations	Active consideration of how to analyse the available information (note GIRFEC paper <sup>2</sup> and suggested reading <sup>3</sup> )  Note of how the above have been interpreted and understood so as to lead to a particular conclusion; include how contradictory indicators have been considered and weighed
Bias	Workers should be aware of the potential for bias in the assessment and through the adoption of a questioning approach and the use of supervision consider how to manage any points
Triangulation	Where possible assessments should aim to use multiple sources of information to triangulate key points and opinions
Key conclusions	Note of key conclusions reached concerning likely age
Confidence and probability	Statement indicating the confidence of the judgement expressed regarding the indicated age
Feedback	Initial findings fed back to contributing agencies for comment and clarification if necessary
Supervision	Findings should be jointly reviewed by the workers and their supervisor. Workers may wish to consider using a process of 'challenging and proving' to help develop conclusions.

<sup>2</sup> Helm, D. (2009) Analysis and Getting it right for every child: A Discussion Paper, Edinburgh, Scottish Government (<http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec/Practitioners/ToolsResources/AnalysisPaper>)

<sup>3</sup> Helm, D. (2010) Making Sense of Child and Family Assessment, London, Jessica Kingsley

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

Report management	
Confirmation that young person has seen and understood the report and its conclusions	Ensure that the young person and their legal representative has a copy of the report and that the young person understands its contents; ensure the young person understands the implications of the conclusions; advise the young person of how the principles of handling confidential information will apply
Information sharing	The views of the young person concerning the information sharing process should be sought and noted <sup>4</sup>
Response from the young person	Note the response of the young person and their representative to the report; note any agreed amendments
Details of the report's circulation	Note who will receive a copy of the report
Notification	The distribution of the age assessment report should be made in accordance with the information sharing protocol

<sup>4</sup> The principle of consulting with the (claimed) child on matters that affect s/he is in keeping with Article 12 of the UNCRC and the Children (Scotland) Act 1995 .

## Statutes and Legal Guidance

### **Borders, Citizenship and Immigration Act 2009**

[http://webarchive.nationalarchives.gov.uk/20100503160445/http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/2009/cukpga\\_20090011\\_en\\_1](http://webarchive.nationalarchives.gov.uk/20100503160445/http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/2009/cukpga_20090011_en_1)

(Under section 55 of the Borders, Citizenship and Immigration Act 2009, the UK Border Agency must have arrangements in place to safeguard and the welfare of children in discharging its functions. These arrangements are set out in statutory guidance, see link immediately below).

### **'Section 55' Guidance**

<http://webarchive.nationalarchives.gov.uk/20100503160445/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/bci-act1/change-for-children.pdf?view=Binary>

**Scottish Executive (2004) *Protecting Children and Young People- The Charter*** (referred to in the above noted UKBA guidance)

<http://www.scotland.gov.uk/Resource/Doc/1181/0008817.pdf>

### **UK Borders Act 2007**

[http://webarchive.nationalarchives.gov.uk/20100503160445/http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/2007/cukpga\\_20070030\\_en\\_1](http://webarchive.nationalarchives.gov.uk/20100503160445/http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/2007/cukpga_20070030_en_1)

### **UKBA Procedure *Processing an Asylum Application from a Child***

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/processingasylumapplication1.pdf?view=Binary>

### **UKBA Policy Briefing 33 (Age Disputes)**

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumsupportbulletins/children/pb33?view=Binary>

### **Children (Scotland) Act 1995**

<http://www.legislation.gov.uk/ukpga/1995/36/contents>

### **Immigration Law Practitioners' Association (ILPA) (General)**

<http://www.ilpa.org.uk/>

### **Children's Legal Centre**

<http://www.childrenslegalcentre.com/>

### **Children's Legal Centre (Note)**

The Queen on the application of B v the London Borough of Merton

(2003) EWHC 1689 (Admin) (14 July 2003)

<http://www.childrenslegalcentre.com/Resources/CLC/Documents/PDF%20A-M/Merton%20Note.pdf>

Family Law Week (Notes on relevant legal decisions to date)

<http://www.familylawweek.co.uk/site.aspx?i=kw342>

### **Refugee Council – Information Service Online (Explanation of statutes and policy)**

<http://www.rcis.org.uk/>

## Overarching Treaties and Conventions

### Convention and Protocol Relating to the Status of Refugees (UNHCR)

<http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

### United Nations Convention on the Rights of the Child (UNHCHR)

<http://www2.ohchr.org/english/law/crc.htm>

### European Convention on Human Rights (Council of Europe)

<http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm#FN1>

## Policy and Practice Guidance

**Scottish Government (2008)** *A Guide to Getting it Right for Every Child*, Edinburgh, Scottish Government

**Scottish Government (2010)** *A Guide to Implementing getting it Right for Every Child*, Edinburgh, Scottish Government

**Scottish Government (2010)** *Practice Briefing 4, Using the National Practice Model II: Gathering information with the My World Triangle* (GIRFEC)

<http://www.scotland.gov.uk/Resource/Doc/1141/0109332.pdf>

### UKBA Policy (web gateway)

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/>

### UKBA Age Assessment Instruction

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/assessing-age?view=Binary>

### UKBA Processing Asylum Applications from a Child

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/processingasylumapplication1.pdf?view=Binary>

## Professional Ethics

### British Association of Social Workers

<http://www.basw.co.uk/about/code-of-ethics/>

### Scottish Social Services Council (code of practice)

<http://www.sssc.uk.com/sssc/codes-of-practice/codes-of-practice.html>

### Royal College of Paediatrics and Child Health (policy statement concerning use of xrays)

[http://www.rcpch.ac.uk/sites/default/files/asset\\_library/Policy%20and%20Standards/X%20rays%20and%20asylum%20seeking%20children%20policy%20statement.pdf](http://www.rcpch.ac.uk/sites/default/files/asset_library/Policy%20and%20Standards/X%20rays%20and%20asylum%20seeking%20children%20policy%20statement.pdf)

## Children and Young People's Perspectives

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**Payne, M (2005)** *Modern Social Work Theory*, (3rd Edition) Basingstoke, Palgrave MacMillan

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## Assessment Practice

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**Black, S. Aggrawal, A. Payne-Jones, J (2010)** *Age Estimation in the Living*, Wiley-Blackwell, Chichester

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**Rose, R. Philpot, T. (2005)** *The Child's Own Story*, London, Jessica Kingsley

**Ryan, T. Walker, R. (2007)** *Life Story Work*, London, BAAF

#### **Scottish Refugee Council Training Modules on Refugee and Asylum**

<http://www.scottishrefugeecouncil.org.uk/training>

#### **Working with Interpreters**

##### **National Register of Public Service Interpreters, Code of Professional Conduct**

<http://www.nrpsi.co.uk/pdf/CodeofConduct07.pdf>

##### **Medical Foundation for the Care of Victims of Torture (2005)** *Code of Practice & Ethics for Interpreters and Practitioners in Joint Work*

<http://www.torturecare.org.uk/briefing/982>

##### **Burnet, A (2002)** *Guide to Health Workers Providing Care for Asylum Seekers and Refugees* Medical Foundation

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##### **Rival, H. Tribe, R. (eds) (2003)** *Working with Interpreters in Mental Health* Hove, Brunner-Routledge

#### **Cultural Contexts, Childhood**

**Lancy, D. F. (2008)** *The Anthropology of Childhood* Cambridge, Cambridge University Press

Childhood (Journal focussing upon theoretical and empirical articles, reviews and scholarly comments on children's social relations and culture, with an emphasis on their rights and generational position in society)

<http://chd.sagepub.com.libezproxy.open.ac.uk/>

#### **Child Protection and Trafficking**

##### **London Safeguarding Children Board**

<http://www.londonscb.gov.uk/trafficking/>

**Scottish Government (2010)** *National Guidance for Child Protection in Scotland* Edinburgh, Scottish Government

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**University of the Highlands and Islands (2011)** *Scotland: A safe place for child traffickers? – A scoping study into the nature and extent of child trafficking in Scotland* Edinburgh, SCCYP

<http://www.glasgowchildprotection.org.uk/NR/rdonlyres/349F1C52-6AFD-4D80-99A8-A7AF39932D00/0/ChildTraffickingJourneySoFar.pdf>

## Country Information

### **Amnesty International (country and thematic reports)**

<http://www.amnesty.org/en/library>

### **UKBA Country of Origin Information Service**

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

### **UK Government web archive (Home Office) (Pre 2011) Country of Origin Information**

[http://webarchive.nationalarchives.gov.uk/20101208171359/http://rds.homeoffice.gov.uk/rds/country\\_reports.html](http://webarchive.nationalarchives.gov.uk/20101208171359/http://rds.homeoffice.gov.uk/rds/country_reports.html)

### **UNHCR Country Reports**

<http://www.unhcr.org/pages/49c3646c4b8.html>

UNICEF (2011) The State of the World's Children 2011: Adolescence – An Age of Opportunity [http://www.unicef.org/adolescence/index\\_57468.html](http://www.unicef.org/adolescence/index_57468.html)

## Organisational Links

### **Aberlour Child Care Trust – Guardianship Service**

<http://www.aberlour.org.uk/scottishguardianshipservice.aspx>

### **Barnardos Scotland**

[http://www.barnardos.org.uk/who\\_we\\_are/in\\_your\\_region/scotland.htm](http://www.barnardos.org.uk/who_we_are/in_your_region/scotland.htm)

### **British Red Cross – Refugee Services**

<http://www.redcross.org.uk/What-we-do/Refugee-services/Our-services-for-refugees>

### **Children's Legal Centre (Migrant Children Project)**

<http://www.childrenslegalcentre.com/>

### **Compass (Glasgow)**

[http://www.nhsggc.org.uk/content/default.asp?page=home\\_compass](http://www.nhsggc.org.uk/content/default.asp?page=home_compass)

### **Immigration Law Practitioners' Association (ILPA) (General)**

<http://www.ilpa.org.uk/>

### **Freedom from Torture (Medical Foundation for the Care of Victims of Torture)**

<http://www.torturecare.org.uk/>

### **Refugee Council**

<http://www.refugeecouncil.org.uk/>

**Save the Children (UK)**

<http://www.savethechildren.org.uk/>

**Save the Children (International)**

<http://www.savethechildren.net/alliance/index.html>

**Save the Children (Separated Children in Europe Programme)**

[http://www.separated-children-europe-programme.org/separated\\_children/index.html](http://www.separated-children-europe-programme.org/separated_children/index.html)

**Scottish Government – *Getting it Right for Every Child***

<http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

**Scottish Commissioner for Children and Young People**

<http://www.sccyp.org.uk/>

**Scottish Refugee Council**

<http://www.scottishrefugeecouncil.org.uk/>

**United Kingdom Border Agency**

<http://www.ukba.homeoffice.gov.uk>

**United Nations High Commission for Refugees**

<http://www.unhcr.org/cgi-bin/texis/vtx/home>

**Information Management**

**Action on Children's Rights, Report into use of information:** *'Unaccompanied Children Seeking Asylum: Privacy, Consent and Data Protection'*.

[http://www.archrights.org.uk/index.php?option=com\\_content&view=category&layout=blog&id=6&Itemid=15](http://www.archrights.org.uk/index.php?option=com_content&view=category&layout=blog&id=6&Itemid=15)

**Data Sharing Code of Practice ICO**

[http://www.ico.gov.uk/for\\_organisations/data\\_protection/topic\\_guides/data\\_sharing.aspx](http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/data_sharing.aspx)

**Data Protection Act 1998 Compliance advice**

Subject access – Right of access to social services record.

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/practical\\_application/subject\\_access\\_-\\_right\\_of\\_access\\_to\\_social\\_services\\_records.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/subject_access_-_right_of_access_to_social_services_records.pdf)

**Privacy notices code of practice ICO**

[http://www.ico.gov.uk/for\\_organisations/data\\_protection/topic\\_guides/privacy\\_notices.aspx](http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/privacy_notices.aspx)

**Glasgow City Council Guidance**

<http://www.glasgow.gov.uk/en/YourCouncil/CustomerInvolvement/ServiceDepartments/SocialWork/Access+to+files.htm>

Adapted from the Children's Legal Centre at:  
<http://www.childrenslegalcentre.com/Migrant+Childrens+Project/Advice/Advising/FAQ/ageassessment/question2.htm>

### What is the guidance for non-medical age assessments?

There is no statutory guidance on how to conduct an age assessment, and instead a body of case law has developed which gives guidance on the process required. Until 2009 and the case of R(A) v Croydon, R(M) v Lambeth the leading case in this area was the case of R (B) v Merton in which the judge set down broad guidelines in respect of how age ought to be assessed in respect of unaccompanied minor who arrive in the UK without documentary evidence to prove their age. He confirmed that the local authority "cannot simply adopt a decision made by the Home Office" and outlined the following points, many of which have been reiterated in subsequent cases:

- An assessment cannot be made solely on the basis of appearance, and should be a holistic one taking account of the young person's appearance, demeanour, background and credibility
- Any assessment should take into account relevant factors from the child's medical, family and social history, and the decision maker should seek to elicit the general background of the application, including his family circumstances and history, his educational background and his activities during the previous few years. Ethnic and cultural information may also be important.

- There was a duty on the decision makers to give reasons for a decision that an applicant claiming to be a child is not a child
- The young person should be given an opportunity during the assessment to answer any adverse points the decision maker was minded to hold against him
- Age assessments must be conducted by experienced trained assessors and that all the safeguards to ensure fairness are in place
- If the decision maker is left in doubt, the claimant should receive the benefit of that doubt.

A 'Merton compliant' assessment will be in accordance both with the Merton judgment and subsequent case law addressing age disputes. Among other thing, subsequent case law has also established that a young person has a right to be accompanied during the assessment by an appropriate adult and that a local authority can not rely on the decision of the First Tier Tribunal (Immigration and Asylum).

Paediatric assessments do not "attract any greater weight than the observation of an experienced social worker" but must be considered as evidence. If a medical assessment is deemed necessary, it should be carried out with the child's consent and by a practitioner with the appropriate expertise.

## Note of main legal statutes

### Note of relevant asylum and immigration statutes:

- Asylum and Immigration Appeals Act 1993
- Asylum and Immigration Act 1996
- Human Rights 1998
- Immigration and Asylum Act 1999
- Nationality, Immigration and Asylum Act 2002
- Asylum and Immigration Act 2004
- Immigration, Asylum and Nationality Act 2006
- UK Borders Act 2007
- Criminal Justice and Immigration Act 2008
- Borders, Citizenship and Immigration Act 2009

# Appendix 3

## Glossary of key terms

**Age assessment** – The methods used by the UKBA or social services to assess the age of an asylum-seeker. No method of age assessment is capable of determining the precise age of a child. Techniques used by medical examiners merely assess the likelihood that a child's age falls within a range of ages based on comparative data, not always drawn from comparable populations. The accuracy of the assessment is often given as within a range of 2 years over or below the assessment (e.g. aged 17 years +/- 2 years, meaning within the range of 15 years to 19 years of age).

**Age disputed child** – An age-disputed child is an asylum applicant whose claimed date of birth is not accepted by the Home Office and/or by the local authority who have been approached to provide support. This term is usually used to refer to people who claim to be children, but who are treated as adults by the Home Office and/or the local authority. Whether an individual is treated as an adult or as a child has significant implications for the way in which the person's claim for asylum is treated, and the level of support received.

**Asylum** – One of the words used to mean 'refuge' in accordance with the criteria set out in the United Nations Convention Relating to the Status of Refugees 1951. To be recognised as a refugee, you must have left your country and be unable to go back because you have a well-founded fear of persecution because of your race, religion, nationality, political opinion or membership of a particular group.

**Asylum Seeker** – A person who has applied to the government of a country other than their own for protection or refuge because they are unable or unwilling to seek the protection of their own government.

**Child** – UKBA guidance (Paragraph 349 of HC 395) defines a child for the purpose of an asylum application, as a person, who is under the age of 18 or, in the absence of any documentary evidence, appears to be under that age.

**Defensible decision** – A defensible decision has been defined as a decision that will withstand 'hindsight scrutiny' should the case 'go wrong' and negative outcomes have occurred (Carson, 1996; Kemshall, 1998). A decision is defensible if, in spite of a negative outcome, it can be demonstrated that all reasonable steps had been taken in its assessment and management.

**Merton Compliant** – A term used to describe a local authority age assessment that has been conducted in accordance with the case law on age assessments and is therefore fair and lawful. The term derives from the Merton judgment of 2003 which gives 'guidance as to the requirements of a lawful assessment by a local authority of the age of a young asylum seeker claiming to be under the age of 18 years' The guidance in Merton is the place to start when assessing whether an assessment is fair and reasonable, but it is not a definitive statement of the law and should not be relied upon in that sense.

**Merton Judgement** – A key legal judgement (2003) in England that lays down criteria by which to judge whether an age assessment is fair and lawful. It indicates responsibilities of local authority social workers in conducting an age assessment and comments upon type and weighting of evidence. (An information note is set out at appendix 1)

**Opinion** – Formal statement by the responsible social worker of what he or she judges or advises is likely to be the case based upon the available information, acceptable assessment practice and their professional knowledge and experience.

**Appropriate adult** – A full definition and role description of the Appropriate Adult is being developed. A provisional definition is: ‘a person, independent of the assessment process, that is able to: observe the interview; ensure that the young person understands the key processes; ensure that the young person has an opportunity to respond to any information or opinions that may be incompatible with their own account. The appropriate adult must be deemed acceptable to the local authority and the young person and their legal representative.

**Separated child** – Someone under the age of 18, who arrives in the UK without his or her parents or other carer and is subject to immigration control.

**Social Worker** – A person as defined in section 77 of the Regulation of Care (Scotland) Act 2001<sup>5</sup> and who is registered as a social worker with the Scottish Social Services Council<sup>6</sup>.

**Trafficking** – Trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs<sup>7</sup>. In the case of children the definition is widened to the movement and exploitation of children.

<sup>5</sup> Regulation of Care Act 2001  
<http://www.legislation.gov.uk/asp/2001/8/contents>

<sup>6</sup> Scottish Social Services Council (Rules) 2011  
<http://www.sssc.uk.com/download-document/1649-sssc-registration-rules-2011.html>

<sup>7</sup> Summary adaptation of Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Organised Crime  
[http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf)

# Appendix 4

## Report Template

### Age assessment pro-forma in respect of young asylum seekers

#### Personal details of young person

Name:

Reported age:

Current address:

Type of accommodation:

Former address in country of origin:

Current legal status:

Dates of expected legal or procedural hearings/events:

Assessment initiated by:

Name:

Agency:

Date:

Reason:

Lead worker undertaking assessment:

Second worker:

Other contributors:

Name	Agency	Position	Qualifications (if relevant)

Process of events leading to assessment request:

Current situation

Current placement:

Immediate issues:

Young person's understanding of the present situation:

Basis of assessment:

Young person's communication needs:

Communication methods used:

Assessment information

Pen picture:

Summary of young person's description of journey:

Note of any child protection, vulnerability or trafficking concerns:

Presenting health issues:

Documentation:

Physical development and appearance:

Social and emotional development and appearance:

Personal History:

Family History:

Country and Cultural Information:

The process of coming here:

Queries concerning information:

Analysis of information:

Conclusion:

Report management:

Signatures:

Lead Worker	Date
Second Worker	Date
Supervisor	Date



### Contact Details

Scottish Refugee Council  
5 Cadogan Square  
(170 Blythswood Court)  
Glasgow G2 7PH

T 0141 248 9799  
F 0141 243 2499  
E [info@scottishrefugeecouncil.org.uk](mailto:info@scottishrefugeecouncil.org.uk)