



IDENTITY CRISIS

How the age dispute process
puts refugee children at risk

SEPTEMBER 2022



SUPPORTING AND
EMPOWERING
REFUGEES

The children we help feel **unsafe**... they feel **frightened** because if the Home Office doesn't believe they are **children**, they might not believe that they are **refugees**.

They feel **let down** by a government that they thought would keep them **safe from harm**.
They feel **anxious** about their future.

They are **missing out** on the protection we give to children in this country.



Summary

Despite the Home Office repeatedly warning that adult asylum seekers are 'posing' as children and providing numbers of those 'found' to be adults to support this view, the work of the Refugee Council shows that in fact many young people claiming to be children are telling the truth; a truth that is often 'discovered' by professional assessments after a quick visual check had accused them of misrepresenting their age.

In 2021 the Refugee Council helped
219 children
to show that they were children. The Home Office **WAS SURE** they were adults.



These children had been housed with adults, with no specialist support or help, no access to education and crucially, no-one to look after them.

The Home Office claimed they were lying about their age and the evidence showed that they weren't.

No child should be accommodated with adults or lack the basic care necessary to ensure their safety. Children in this position are not safe - they are frightened and feel let down by government. Importantly, they are missing out on the care and protection we give to children in this country.

The Refugee Council has serious concerns that this situation is **causing long term harm to children**, and that many more children who we have not been able to reach continue to live without the help and protection they need. This is appalling treatment of any child, potentially exposing them to exploitation and abuse, mental and physical harm.

What's even more worrying is that this situation is very likely to get worse due to the government's flawed plans to make it harder for children to have their age identified correctly.

The government's reforms promise that decision making will be quicker and more straightforward; we believe the opposite is the case, that instead more children risk being wrongly treated as over 18, more will be assessed unnecessarily and some forced to go through scientific procedures that are not reliable.

Habib is 15 years old. He wasn't believed at first.

Introduction

This briefing:

- seeks to inform the debate around young people seeking asylum in the UK who claim to be children and whose claimed age is not believed; amongst them children determined to be adults based on the opinion of immigration staff upon meeting the individuals when they first arrive in the UK.
- provides a full and balanced narrative of age disputed people seeking asylum, given the disproportionate focus in the media and from Government of adults 'posing' as children. This briefing seeks to tell the 'other' story so often hidden from mainstream media – **that children are being wrongly assessed as adults**, and the UK is failing to meet their needs and provide protection for some of the most vulnerable young people in our society.
- describes the process for treating someone as 'age disputed' and resolving the dispute when the government says someone is an adult and they claim to be a child.
- explains how the Refugee Council intervenes and what is done to overturn decisions we believe are wrong.

As well as sharing some recent statistics, we also provide some personal testimonials of young people left in unsafe conditions because their age was wrongly determined.

The report also looks at the proposed reforms and discusses how they risk making the situation worse – denying more children the vital support they need to recover and rebuild their futures here in the UK.

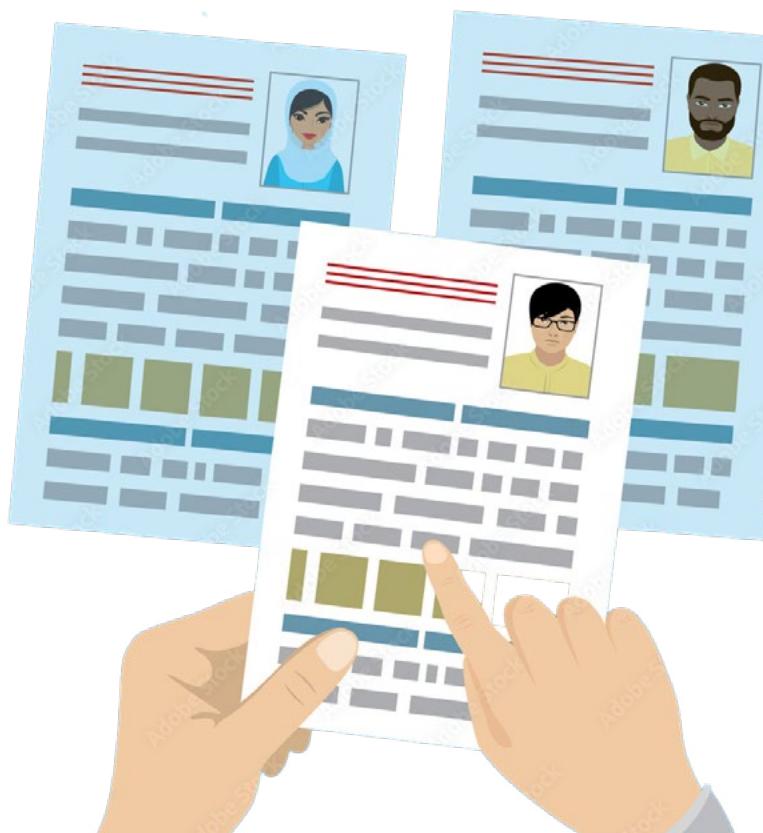
The Refugee Council works with young people who we believe may be telling the truth about their age but who are disbelieved. We help them in their attempts to receive a professional, careful assessment rather than an instant decision, in accordance with case law as well as professional guidance.

Over the period of 12 months (January to December 2021) our specialist project worked with **233 young people** whose age had initially been determined by the Home Office as 'certainly' adult and whose subsequent professional local authority social work assessment had been completed.

Only 14 of them were found to be adult.

The extremely high proportion of these initial decisions being overturned (**94% of concluded cases**) challenges the view put forward by government that the problem is primarily that many of those who claim to be children are not.

This briefing seeks to shine a light on the hidden number of children the government deems to be 'certainly' adults who are in fact children.



What happens when children and young people arrive in the UK and apply for asylum?

An Immigration or Border Force officer¹ who initially encounters a young person who makes an asylum claim and says they are under 18 has one of three options;

1. to accept the age the person claims to be
2. to 'dispute' that age but acknowledge there is some doubt that they may be a child
3. to determine, on first meeting them, that the child's appearance strongly suggests they are significantly over 18². These young people are **not** separately counted by the Home Office so we **don't know** how often this happens.



Scenarios A & B

The child/age-disputed young person is sent off to the local authority whose social workers will decide if an assessment is needed. If the social workers assess, they will look after the young person whilst they are making a professional assessment. In this situation social workers will decide the most appropriate placement for the child/young person and other children in their care – this doesn't mean they have to place the age disputed young person alongside any other children if they feel this would not be safe. All placements of the children and young people they look after should be supervised by adults trained to work with children and young people. The guidance followed by social workers in England, Scotland and Wales has been drafted by experts and approved by professional bodies.

Scenario C

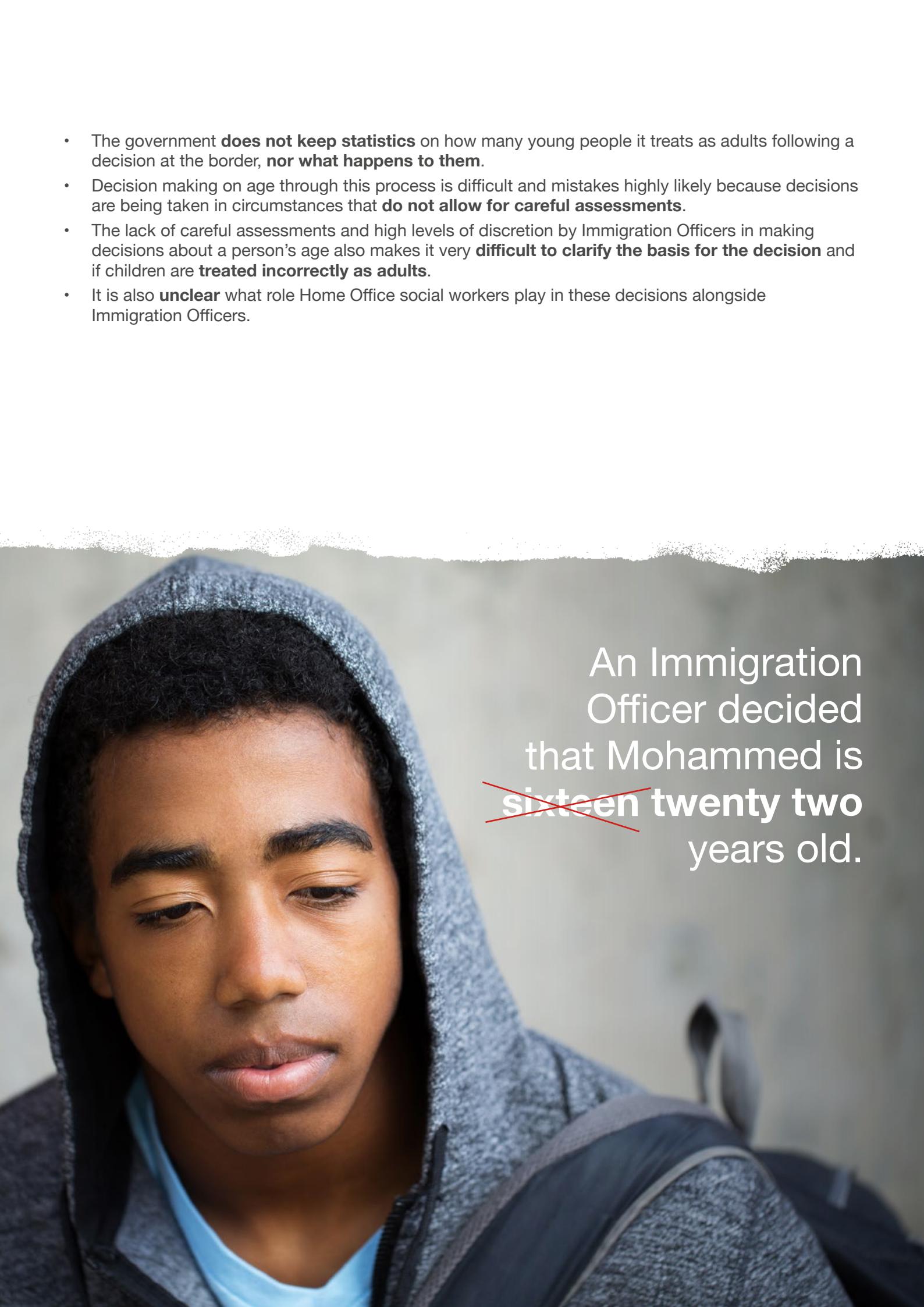
The person is told they are adult, they are not sent for assessments and will be 'given' a date of birth and sent to live with adults in hotels, initial hostel-style asylum accommodation and even former military barracks. This accommodation is intended for adults, or for children living with their families. These young people are forced to share rooms with adults. No-one tells the local authority that they are there and the Refugee Council has to rely on others to alert us. They are not counted by the Home Office so we don't know how often this happens and the government does not keep statistics on how many young people it treats as adults under scenario C, nor what happens to them.

1 Employed by the Home Office and responsible for the initial decision on age

2 This wording is taken from the Home Office's guidance, Assessing Age <https://www.gov.uk/government/publications/assessing-age-instruction>.

It includes advice that the policy is designed to allow a large margin of error in favour of the claimant's claim to be a child. We are concerned that this guidance provides insufficient protection, resulting in an unacceptable number of children being mistakenly identified as adults and denied the protection to which they are entitled.

- The government **does not keep statistics** on how many young people it treats as adults following a decision at the border, **nor what happens to them**.
- Decision making on age through this process is difficult and mistakes highly likely because decisions are being taken in circumstances that **do not allow for careful assessments**.
- The lack of careful assessments and high levels of discretion by Immigration Officers in making decisions about a person's age also makes it very **difficult to clarify the basis for the decision** and if children are **treated incorrectly as adults**.
- It is also **unclear** what role Home Office social workers play in these decisions alongside Immigration Officers.



An Immigration
Officer decided
that Mohammed is
~~sixteen~~ **twenty two**
years old.

Government statistics and narrative

The published statistics³ for the last five years state that the Home Office asked social workers to assess 6,177 young people claiming to be children (those treated under scenario B).

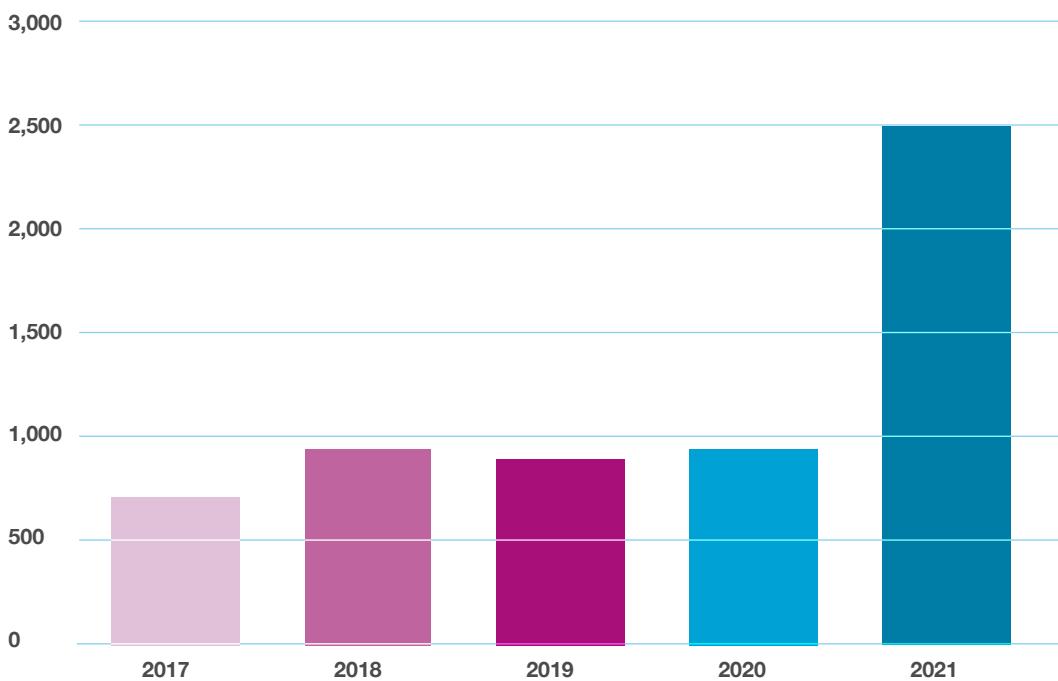
Over 700 were found to be children following an assessment. More are found to be children later in the process, including those initially treated as adults, therefore these statistics are not reliable.

Based on this data the government claims that there is a need to reform age assessment methods without any analysis of how this is going to better tell the difference between adults and children.

No mention is made of the hundreds of children treated as adults from the outset, which is potentially the biggest safeguarding risk as no reforms in this regard are part of the government's plans.

These statistics relate to those applicants whose claimed age is doubted by a Border Force or Immigration Officer and referred to a local authority for a professional assessment of age. The numbers over the last five years are shown in this graph.

ASYLUM APPLICANTS AGE DISPUTED



The government **does not** produce statistics on how many social work age assessments are overturned following an initial decision, nor does it produce statistics on how many of those claiming to be a child are deemed adult and treated as adults.

The government therefore **does not know** how its own policies and procedures are working, choosing instead to present a simplified picture – claiming that people are pretending to be children and using the same few examples to illustrate the problem. These young people are not separately counted by the Home Office so we don't know how often this happens and the government does not keep statistics on how many young people it treats as adults following a decision at the border, nor what happens to them.

Decision making on age through this process is difficult and mistakes highly likely because decisions are being taken in circumstances that do not allow for careful assessments to be made. The lack of careful assessments and high levels of discretion by Immigration Officers in making decisions about a person's age also makes it very difficult to clarify the basis for the decision and if children are treated incorrectly as adults. It is also unclear what role Home Office social workers play in these decisions alongside Immigration Officers.

³ Home Office factsheet to accompany the Nationality and Borders Bill



Social work assessments

The treatment of children who are initially and incorrectly judged to be adults contrasts sharply with the way unaccompanied children in the UK are usually treated.

Children in the UK without their parent to look after them are the responsibility of local authorities, therefore local authority social workers can assess the age of someone if they have reason to doubt the age claimed. Over the last 20 years that this issue has been discussed, legally binding procedural safeguards have been introduced to ensure that the assessments are conducted fairly and that mistakes are minimised.

THESE SAFEGUARDS INCLUDE:



Assessments **must** be carried out by **two trained and experienced social workers**.



The young person **should not** be assessed whilst in immigration detention, a police station or accommodation designed for adults.



An **appropriate adult** must be present in all interviews conducted as part of the assessment, to ensure that the young people understand the process being undertaken and to support them to participate in the assessment interview.



Adequate reasons must be given as to why the assessed age is different from the age claimed i.e. the analysis of information and decision must be reasonable.



An **opportunity to respond** to any factors leading the social workers to doubt the claimed age before a final decision is made; this is sometimes referred to as a 'minded to' decision.



An **interpreter** must also be provided if needed, ideally in person. Decisions should not be made on appearance alone, as this is very unreliable.

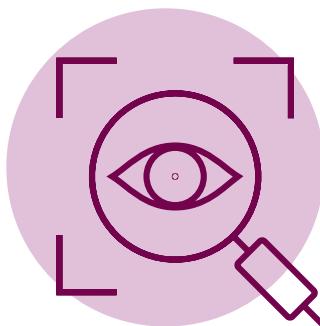
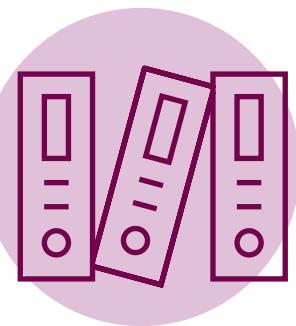
Social workers in England, Scotland and Wales have been provided with guidance written by professionals, to help them conduct the assessment fairly and in line with social work principles.

This guidance is not formulaic nor does it specify exactly how long an assessment should be as cases will vary.

Social work assessments will usually take time to arrange, conduct and conclusions made. During this time the local authority is responsible for providing care and support for the young person.

This local authority support protects them and other children through the choice of accommodation and the provision of supervised placements.

Over a number of years concerns were expressed that the social work assessment process lacked adequate oversight or scrutiny, so since 2009 anyone wanting to challenge the process or outcome could apply to the court to ask for a review of the decision; these 'fact finding' reviews are conducted by judges independent of the Home Office and local authorities, to examine the evidence and information used in the assessment and other relevant information presented to them; judges then make their own decision as to the age of an 'age disputed' young person.



Refugee Council Age Disputes Project and outcomes for those we help



Created in 2010, the Age Disputes Project supports unaccompanied children seeking asylum who arrive in the UK and are disbelieved about their age. The project provides advice and support to unaccompanied children seeking asylum who are judged to be over 18 years old by the Home Office and/or local authority, and are thereby treated as such during the process of their asylum claim and in relation to their support.

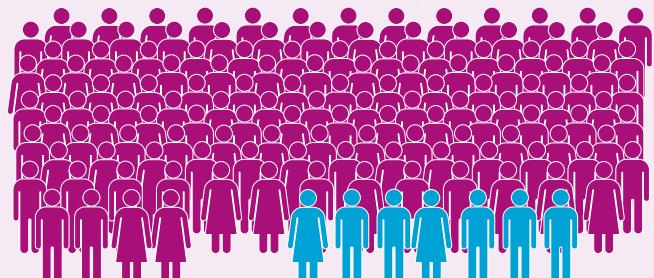
We collect statistics relating to the work we do, including those young people who have been treated as adults because of a decision made by an Immigration or Border Force officer and who we think are probably children. We will then help to get a professionally conducted assessment by a local authority social worker. The local authority responsible for the assessment and for supporting the young person whilst the assessment is completed depends on whose area the young person was identified as 'in need' of this assessment.

The young people we help are predominantly discovered in Home Office Initial Accommodation and contingency asylum support hotels used to accommodate adults in the asylum system.

In 2021 our project assisted **141** young people who had been judged by Home Office staff to appear 'over 25'⁴ and therefore treated as adult and not referred for a local authority assessment.

Only SEVEN were found to be adults when their assessment was completed.

That means **94% OF THOSE WE HELPED WERE FOUND TO BE CHILDREN.**



In previous periods for which we collected statistics the proportion was much the same.⁵

The children we help tell us they feel unsafe because they are living with adults, they feel frightened because if the Home Office doesn't believe they are children they might not believe that they are refugees. They feel let down by the government that they thought would keep them safe from harm. They feel anxious about their future – will they be able to go to school and to make friends of their own age? They are missing out on the protection we give to children in this country. Some of their voices are shared at the end of this document.

Although the government does not publish its own statistics nor those assessed children by local authorities following the Home Office decision that they are significantly over 18, local authorities do record these cases and a recent Freedom of Information Act request by the NGO Helen Bamber Foundation revealed that at least 450 young people⁶ were referred to local authorities in 2021 due to concerns that they may be children.

OF THESE, THREE QUARTERS WERE FOUND TO BE CHILDREN.

⁴ Until January 2022 government policy required Home Office staff to apply the 'over 25' test in order that an individual be treated as adult in the asylum process

⁵ For example as shown by the statistics given in evidence to the JCHR in 202

⁶ RMCC briefing <https://media.refugeecouncil.org.uk/wp-content/uploads/2022/08/18165943/RMCC-briefing-Rwanda-age-disputes-June-2022-Final.pdf>

Government reforms

The New Plan for Immigration and subsequent Nationality and Borders Act 2022 outline changes to the way age disputed young people are defined, the way social work assessments are conducted and who has the power to conduct them.

The Home Office is taking more control away from local authorities.

The Act establishes a National Age Assessment Board; social workers employed by the Home Office will do assessments of young people who can't prove they are children.

The Home Office has also given itself the power to force young people whose age can't be proved to be medically assessed, using scientific methods such as x-rays that do not have to be approved by the professional bodies who oversee them. This is despite recent independent research⁷ concluding that currently available methods are imprecise and describing widespread agreement amongst experts that they cannot be relied upon.

The Government made changes to the inadmissibility rules in 2020 which mean the Home Office does not have to consider a claim for asylum in the UK if the person has arrived in the UK from a "safe third country". Instead, the third country should, in fact, be responsible for considering the claim.

Although these new inadmissibility rules and the associated agreement with Rwanda will not affect those who are accepted as children or treated as children whilst they are being assessed, those who are deemed an adult without assessment WILL be at risk, especially if they can't be helped by projects such as ours before being told they are to be sent to another country to have their asylum claim processed.

This is making children and young people very frightened.

We continue to raise awareness of these issues and work with other organisations, such as the Refugee and Migrant Children's Consortium, which share significant concerns about the current situation, the reforms in the Nationality and Borders Act and the risk to those deemed adult and notified that they may be sent to Rwanda.

7 The use of biological methods in Asylum age assessments, the Parliamentary Office for Science and Technology, March 2022.



13-year-old
Asim is terrified
he will be sent
to Rwanda

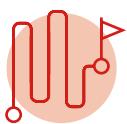
Recommendations

to reduce the number of children mistakenly identified as adults



The government must collect and publish statistics on age disputed young people who are:

- Treated as adult and later found to be children following a properly conducted assessment
- Initially assessed to be adult and who are subsequently found to be children by an Immigration Judge.



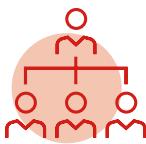
In order to gain a better understanding of the problem, the government should pilot and assess the impact of the practice of referring those young people it has visually determined to be adults for lawful social work assessments, to quantify the risk and avoid any children 'slipping through the net'.



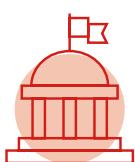
Where a person has claimed to be a child but is being treated as an adult by the Home Office, the Home Office must not issue a 'Rwanda removal notice' until confirmation is received from their legal representative that they have not been, or will not be, referred into the care of a local authority.



Additionally, where a person has been assessed to be an adult by a local authority or the National Age Assessment Board, the Home Office must not initiate or continue with the inadmissibility process until the timeframe for challenging the decision via judicial review or appeal has passed, or the challenge/appeal has been heard.



Government work on the issue of age disputed young people, including guidance on assessments, to be the responsibility of departments/devolved governments with responsibility for children. Social work bodies and inspectorates should have oversight of all age assessments conducted in the UK.



An independent oversight body such as Ofsted should conduct or commission analysis of the current numbers and quality of age assessments conducted by social workers following visual age assessments by the Home Office.

Governments repeatedly acknowledge that unaccompanied children seeking asylum are amongst the most vulnerable, and many policies and processes are different for those deemed to be children.

On such an important issue it is vital that public messaging, including by government, is responsible, measured and accurate, reflecting the necessary complexity of making judgments about how old a person is, particularly when they are children without the protection of their parents and living with the anxiety that the asylum process brings.

Experiences of young people who have been disbelieved about their age

We recently helped some young people who were at risk of being sent to Rwanda after an Immigration Officer decided they were adults. Each of the young people quoted below is now being cared for by a local authority, in some instances careful assessments will aim to decide what their actual age is.

Names have been changed.

“I decided to leave my country because I was scared for my life and coming to England, I had a good feeling and expectation. When they arrested me, my view changed. First they wrote my date of birth and my name wrong and when I asked why, they didn’t say nothing. After they took me to prison and I was very shocked. When I want to speak with them about my age and why I am in prison, nobody answer me. I told them I have birth certificate but they didn’t care.”

Amani

“I was scared a lot and refused to eat until someone visited me and told me don’t worry we will refer you to Refugee Council. I received a call from someone who said he is from Refugee Council and spoke with me in Arabic. This is the first time someone listened to me and I told him all my feeling. He called me every day and I brought a birth certificate and he told me he is going to take me out and he took me out even before my certificate arrived from my family.”

Habib

“When I am in Dover, I tell them I am 16 years, they don’t believe me, they tell me ‘no, you are 28’. They tell me we’ll give you this age, bring me to hotel, I stay in my room. I don’t feel comfortable, I’m afraid. In the hotel I get in a bad situation... After two weeks they sent some social worker, they say this is your age, you are not 28 years, you are 16. It’s better, when I move from the hotel, now I feel better. I will start school in September. Now I have someone to care for me. I lost my family. I come to find a place to live.”

Ahmed

Further reading

Department for Education Statutory guidance on the care of unaccompanied migrant children
<https://www.gov.uk/government/publications/care-of-unaccompanied-and-trafficked-children>

ADCS guidance (England)

https://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf

Government age assessment guidance (Scotland)

<https://www.gov.scot/publications/age-assessment-practice-guidance-scotland-good-practice-guidance-support-social/>

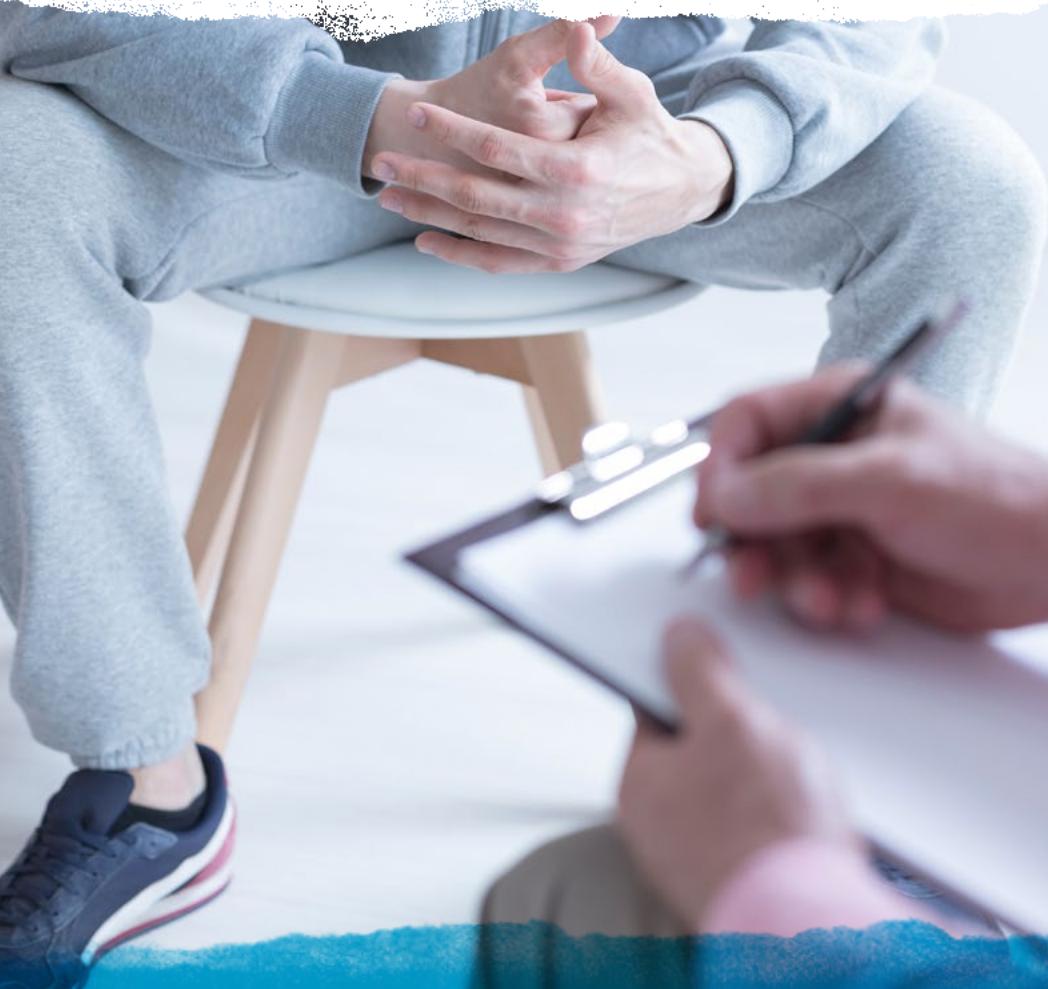
Government age assessment toolkit (Wales)

<https://gov.wales/unaccompanied-asylum-seeking-children-age-assessment-toolkit>

Refugee and Migrant Children's Consortium Briefing on the age assessment proposals in the government's New Plan for Immigration

<https://www.refugeecouncil.org.uk/information/resources/refugee-and-migrant-childrens-consortium-rmcc-briefing-note-on-the-proposals-in-the-new-plan-for-immigration-relating-to-age-assessment/f>

and on age disputed young people facing removal to Rwanda <https://media.refugeecouncil.org.uk/wp-content/uploads/2022/08/18165943/RMCC-briefing-Rwanda-age-disputes-June-2022-Final.pdf>



This report was written by Judith Dennis with assistance from Refugee Council colleagues, particularly in the Age Disputes Project.

Particular thanks to the young people who shared their experiences and thoughts with us.

All photographs are stock images other than the one of the Age Disputes Project on page 7.



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