



Support is our mission

EASO Consultative Questionnaire on Age Assessment Practises

Your Organisation:

- Which group/organisation do you belong to:

Immigration Law Practitioners' Association (ILPA)

- In what capacity and context do you consider Age Assessment issues:

The Immigration Law Practitioners' Association (ILPA) is a professional association with some 900 members (individuals and organisations), the majority of whom are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on numerous Government, including UK Border Agency and other consultative and advisory groups.

Members of ILPA represent individuals seeking asylum whose age is disputed. ILPA has undertaken research on age assessment as listed in your bibliography (Crawley/ILPA *When is a child not a child?*). ILPA has had numerous discussions and meetings with officials on this subject.

- Please detail any research, publications or projects not recorded at Annex 1?

We commend to you the documents in the bibliography contained in *When is a child not a child?*

In addition we suggest the following:

Parliamentary and Ministerial (non medical) (See www.parliament.uk for debates. ILPA holds copies of all other documents.

81.02.26 Lord Avebury to Baroness Young, Minister of State Department of Education and Science

81.03.24 Baroness Young, Minister of State, Department of Education and Science to Lord Avebury

81.03.26 Lord Avebury to Baroness Young, Minister of State Department of Education and

	Science
81.05.04	Baroness Young, Minister of State, Department of Education and Science to Lord Avebury
81.05.05	Lord Avebury, covering letter, press statement and report <i>The use of x-rays for age determination in immigration control (with bibliography and primary source documents)</i>
81.05.06	Lord Avebury to Baroness Young, Minister of State Department of Education and Science
07.01.16	HL WA 1091
07.01.17	HL WA 1090
07.11.05	Children's Commissioner for England to Liam Byrne MP Minister of State
07.11.29	HL WA 458
07.11.29	Children's Commissioner for England to Liam Byrne MP Minister of State
07.12.07	Lord Avebury to Baroness Miller of Chilthorne Dormer
07.12.13	HL col 319-321
08.01.02	Children's Commissioner for England to Liam Byrne MP Minister of State
08.01.03	Admiral the Lord West of Spithead GCB, DSC to Lord Avebury
07.12.07	Liam Byrne MP, Minister of State, to the Children's Commissioner for England
12.04.16	HC col 23-24
ILPA	
07.05.00	ILPA response to the Home Office Consultation Paper <i>Planning Better Outcomes and support for unaccompanied asylum seeking children</i> (available at http://www.ilpa.org.uk/data/resources/13124/07.05.617.pdf)
09.00.00	ILPA briefing, Borders, Citizenship and Immigration Bill, House of Lords Committee Part 3: Clause 51 Duty Regarding the Welfare of Children, Amendment 116 in the names of the Baroness Hanham and the Viscount Bridgeman (available at http://www.ilpa.org.uk/data/resources/12897/09.03.244.pdf)
12.03.29	To Zilla Bowell, Director of Asylum UK Border Agency , Available at http://www.ilpa.org.uk/data/resources/14476/12.03.29-ILPA-to-Ms-Bowell-UKBA-re-

[xrays.pdf](#)

Other information sheets on age assessment, available at:

<http://www.ilpa.org.uk/pages/ilpa-information-service-further-information-sheets.html>

Medical

- 81.03.31 Noel Cameron PHD, Department of Growth and Development, Institute of Child Health, University of London to Lord Avebury (ILPA holds copies).
- 81.04.16 Comments on Lord Trefgarne's reply to PQ of 30 March 1981 Noel Cameron PHD, Department of Growth and Development, Institute of Child Health, University of London (ILPA holds copies).
- 03.00.00 Royal College of Paediatrics and Child Health (2003): *Assessment of the Age of Refugee Children* available at www.rcpch.ac.uk
- 07.05.00 British Dental Association response to the Home Office Consultation Paper *Planning Better Outcomes and support for unaccompanied asylum seeking children* (ILPA holds copies).
- 07.10.31 Dr Hilary Cass, Registrar, Royal College of Paediatrics and Child Health to Liam Byrne MP, Minister of State (ILPA holds copies).
- 08.05.00 Erika Denton, Department of Health, Presentation on Bone Age (ILPA holds copies.)
- 08.10.21 Sir Liam Donaldson, Chief Medical Officer, to Liam Byrne MP, Minister of State (Available at <http://www.ilpa.org.uk/data/resources/14476/08.10.21-Sir-Liam-CMO-to-Phil-Woolas-age-assessment-.pdf>)

UK Border Agency

- 00.06.30 Janice Gale, Asylum Policy Unit to the Law Society, Asylum Applications where age is disputed (Available from ILPA).
- 08.02.25 Age Assessment Working Group, Meeting Record with annexures (Available from UK Border Agency. ILPA holds copies).
- 08.02.00 Unaccompanied asylum-seeking children, Facts figures and future Direction, Brian Kinney Director, U[naccompanied] a[sylum] s[eeing] c[hildren] reform programme (powerpoint) (Available from UK Border Agency. ILPA holds copies).

08.05.19	Age Assessment Working Group, Minutes (Available from UK Border Agency. ILPA holds copies)
Undated	Age Assessment Working Group Plenary Session Position Paper (produced subsequent to four meetings) (Available from UK Border Agency. ILPA holds copies)
09.06.16	Hugh Ind , Strategic Director Asylum to Dr Louise Pirouet (Available from ILPA)
10.09.22	Hugh Ind, National Lead for Asylum to Judith Dennis, Refugee Council, Detention figures for age-disputed cases (available from ILPA)
12.03.28	Zilla Bowell, Director of Asylum Dear Sir/Madam, Age Assessments, Dental X-rays (available at http://www.ilpa.org.uk/data/resources/14476/12.03.28-UKBA-letter-on-X-ray-Age-Assessment.pdf)
Miscellaneous	
07.07.06	Lady Ann Dummett to Heaven Crawley (available from ILPA)
07.11.07	Opinion of Nicholas Blake QC and Charlotte Kilroy for the Children's Commisisoner for England <i>In the matter of a proposed amendment to the immigration rules</i> (Copy available from ILPA)
12.03.28	Joint Statement from the four children's commissioners (available at http://www.childrenscommissioner.gov.uk/content/press_release/content_466)

Views on Age Assessment practices:

- In which circumstances and when do you think Age Assessments should be initiated:

Age assessments should be initiated much less frequently than is currently the case in the UK. Countries should keep statistics on the frequency with which age is disputed and these should be compared.

Age disputes should be initiated when a child or young person does not know his or her age or when there is contradictory information about the age of a child or young person.

Age should not be disputed as a matter of routine. Age should not be disputed where there is no evidence contradicting the age that a child or young person says that s/he is.

- Which actors do you think should be involved in the age assessment processes:

Attention should be given as to the possibility of obtaining, without risk to the child, documentary evidence of age where this exists (such as birth certificates).

Age assessments should be undertaken by persons who are independent, not by persons who have a financial or other stake in the outcome of the decision.

An holistic approach should be taken and social work professionals are likely to provide an assessment in the first instance, which may be supplemented by evidence from paediatricians/educational psychologists in appropriate cases provided that invasive procedures with an element of risk and other unethical applications of medical and social science practices are not used.

The child/young person should be accompanied by an appropriate adult to any assessment.

There should be an independent review of the decision in a case of dispute.

The assessment of age is a matter of judgement and in the case of disputes the final decision is for the court, based on the evidence available. We commend to you the decision of the UK Supreme Court in *R(A) v LB Croydon & R(M) v LB Lambeth* [2009] UKSC 8 and also the decisions of the UK courts in *R(B) v LB Merton* [2003] EWHC 1689 (Admin), *A v Croydon LBC* [2008] EWCA Civ 1445 and *R (FZ) v LB of Croydon* [2011] EWCA Civ 59.

- Are there issues within the field of Age Assessment that you have particular concerns about:

Yes.

The frequency with which age is disputed. The dispute itself is harmful to a child: being doubted, disbelieved, interrogated and physically examined all take their toll. States such as the UK are too quick to embark upon a dispute.

The use of techniques that carry risks to the physical and/or psychological integrity of the child. The use of ionising radiation (x-rays) and invasive medical examination are matters of particular concern. Not only are these techniques harmful, those using them also make exaggerated claims for what they can prove. As set out above, in *R(A) v LB Croydon & R(M) v LB Lambeth* [2009] UKSC 8, in *When is a child not a child?* and in numerous other sources, while a person's age is a fact it is not always a fact that can be known. Techniques measure maturity, not age, and compare maturity with cohort

samples. In these circumstances, the decision as to a person's age is a judgment not a discovery. Any work that fails to acknowledge this.

The treatment of the child or young person pending a final decision on age.

The extent to which being over or under 18 is seen as the last word on safety of self and/or others, with a failure adequately to support young people in their late teens or early 20s who are in situations in which they struggle to cope.

- Can you give any examples of good current practises relating to Age Assessment methods that you are aware of:

We recall that good practice involves knowing when, and when not, to dispute age and thus the best practices are likely to be found where there are a low number of age disputes.

We draw your attention to the extensive bibliographies above and in *When is a child not a child?* (Crawley/ILPA).

See *R(A) v LB Croydon & R(M) v LB Lambeth* [2009] UKSC 8 for a very clear exposition of the role of the courts.

- Which topics relating to Age Assessment do you think Member States should give priority to for further consideration & development:

How and when a dispute on age is initiated: the cases in which it is and the cases in which it is not appropriate to dispute age.

Conceptualising a dispute about age as being, in the vast majority of cases, a matter that will be resolved by the exercise of a judgement, not the discovery of a fact.

How children and young people are treated during the period until the dispute is resolved.

Procedures for review of decisions about age assessment and the role of the courts.

The needs of young adults and the appropriate treatment of those who, while not children, are struggling to cope with situations as persons seeking asylum that make demands upon them that are beyond their maturity.

- Should you be invited to participate, how do you think you could contribute to an Expert meeting on Age Assessment (topic/experience):

ILPA possess a wealth of material and experience drawn from the work of practitioners, from research and the subsequent follow-up work and feedback spanning all aspects of age assessment. We have experience of the legal standards, of representing children under immigration control, of gathering and weighing evidence and of having conducted extensive research in this field and followed this up with numerous meetings and discussions with a multiplicity of actors, official and other. We consider it essential that any expert meeting include legal representatives.

Annex 1:

Research & publications consulted by EASO by Author:

- Aynsley-Green, Sir Al : The assessment of age in undocumented migrants (March 2011)
- Birch, Dr Diana: Age Assessment, A practical methodology (2010)
- Cava de Llano y Carrio, Maria Luisa (Spain's Acting Ombudsman): Children or adults? Age Assessment practices- minors first, foreigners second (2010)
- Crawley, Heaven/ILPA: When is a Child not a child? (February 2006)
- Department of Homeland Security: Office of Inspector General Age Determination practices for Unaccompanied Alien Children in ICE custody
- EMN, European Migration Network synthesis Report: Policies on Reception, Return & Integration for, and numbers of, Unaccompanied Minors- An EU Comparative Study (2010)
- Ernst, Rudolph: Volljährigkeitsbeurteilung in Österreichischen Asylverfahren von 1997 bis 2010 (Rechtsmedizin 2010)
- European Commission: Action Plan on Unaccompanied Minors (2010-2014)
- FRA: European Union Agency for Fundamental Rights Report: Separated asylum seeking children in EU Member States: an examination of living conditions, provisions & decision-making procedures in selected EU Member States through child centred participatory research
- FRA: Separated, asylum- seeking children in European Union Members States- comparative report (2011)
- International Governmental Consultations: IGC on migration, asylum & refugees- Asylum procedures report on policies and practicalities in IGC participating states (2009)
- International Governmental Consultations: IGC on migration, asylum & refugees – Chair's summary of Workshop on UM (9-10 December 2010)
- International Governmental Consultations: IGC on migration, asylum & refugees- Workshop on Age Determination (16-17 June 2011)

- International Governmental Consultations: IGC on migration, asylum & refugees- Chair's summary on workshop on Strategies and Policies for Age Assessment of Unaccompanied Minors (16-17 June 2011)
- ILPA: Information sheet: Age disputes & Age assessments 3 (17 April 2011)
- ILPA: Working with refugee children- current issues in best practice (Feb 2012)
- IOM: Unaccompanied Minor Asylum-seekers: Overview of protection, assistance & promising practices (December 2011)
- IOM: Exchange of Information & best practises on 1st reception, protection & treatment of minors (September 2010)
- Jaid, Meghan: SIT Graduate Institute/ SIT SA Dublin's forgotten: The transition from 'Separated Children' to 'aged-out minors' through policy, media & organisational support (2009)
- OHCHR: Judicial implementation of Article 3 of the CRC in Europe (2011)
- Oslo UH: International workshop on methods for age estimation in teenagers & young adults (2011)
- Parliamentary Assembly: Resolution 1810 Unaccompanied children in Europe: issues of arrival, stay & return (15 April 2011)
- Parsons, Annika: The Best Interests of the child in Asylum & refugee procedures in Finland
- SCEPT: Statement of good practice-4th revised edtn (2009)
- SCEPT: Thematic Group on Age Assessment- Review of current laws, policies and practices relating to age assessment in sixteen European countries (May 2011)
- SCEPT: Background paper to consultation of experts on age assessment (October 2011)
- Study Group of Forensic Age Estimation of the German Association for Forensic Medicine: Guidelines for Age Estimation in living individuals in criminal procedures (2011)
- UN: UN Convention on the rights of the child (1989)
- UNHCR: UNHCR guidelines on policies and procedures in dealing with Unaccompanied Children seeking Asylum (Feb 1997)
- UNHCR: Guidelines on determining the best interests of the child (May 2008)
- UNICEF: Identification of UM & separated children, exploring age assessment challenges- background & discussion paper – Belgian presidency of the EU (9-10 December 2010)
- UNICEF: The State of the world's children 2011- Adolescence, An age of opportunity (February 2011)
- UNICEF: Discussion paper: Age Assessment practices, a literature review & annotated bibliography (April 2011)