

# The age assessment process for local authorities

09 April 2025

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The legal challenges faced by councils in relation to age assessments before the Upper Tribunal and in consequential judicial review challenges to the duties owed to applicants and how they are performed are ever evolving and increasing in complexity and cost.

## Procedures and requirements

The legal standards for age assessments are regularly scrutinised and can leave local authorities uncertain as to whether their procedures meet the current requirements.

### 1. Understand the law

Keeping up to date with relevant case law, statutory guidance and other guidelines will enable councils to ensure that they have the most up-to-date knowledge on key legislation and case law.

### 2. Record keeping

Careful record keeping about how decisions are reached is also key.

### 3. Train social workers

Local authorities can help save the financial and time costs of challenges down the line by taking the time to ensure all social workers are kept up-to-date on relevant case law and the current legal standards, and providing guidelines or templates for social workers to refer to.

These allow a more streamlined age assessment process, which is efficient, consistent from case to case, and compliant with the legal standards.

## The process and common pitfalls

Key guidance is available including the [Age Assessment Guidance by ACDS](#). This provides thorough yet clear guidelines on what is expected of local authorities when conducting age assessments.

Local authorities fall at the 'first hurdle' by failing to acknowledge, respond to and execute age assessments following an urgent referral by the instructing solicitor or charity. Simple mistakes like this open the door to unnecessary judicial review challenges.

Failing to provide copies of the age assessments to the applicant's solicitors and the applicant themselves can also lead to unnecessary judicial reviews.

Common challengeable points that usually crop up in age assessments challenges include:

- Failure to consider ID documents (photo or physical copy).
- Failure to provide an appropriate adult.
- Providing no 'minded-to' session allowing the applicant to provide further evidence or information to challenge the initial assessment.
- Providing no translator/ wrong translator/ not changing the translator when the applicant explains they cannot fully understand the translator provided.

- Making a decision based solely on 'appearance and demeanour'.
- The length of time it has taken for the age assessment to be conducted (the age-disputed child has turned 18/ about to turn 18).
- A constant change in social workers attending the interviews (so applicant and social workers are unable to build a rapport).
- Failing to accommodate the child pending the age assessment.
- The applicant was found to be a child and has eventually left care/ age-disputed child was in the care of a local authority, but not offered care leaving services (13-week rule).

## Closing comments

Key and early focus on the above points - well recorded - will enable local authorities to execute thorough, Merton compliant age assessments that meet the current legal standard and requirements established through developing case law in an efficient manner. This will also prevent cases having to be revisited and age-disputed applicants having to be re-assessed multiple times.

Where issues are identified with an age assessment, it is key that steps are taken during the pre-action stage, as reported cases suggest some local authorities tend to leave this until an application for judicial review has been issued. There is then a scramble to try and rectify any issues and settle prior to the question of permission being decided on the papers. Settling post-issue also leaves local authorities at risk of significant claims for the applicant's costs.

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