



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request: FA 14/08/00200

File Number: ADF2014/27679

Scope of request

- 1. A copy of the current training manuals and materials used by Age Determination officers at the Department of Immigration and Border Protection (DIBP) when assessing the age of minors.*
- 2. A copy of the current internal position description for the role of an Age Determination officer (or for DIBP positions where the conduct of age determinations is a facet of that position).*
- 3. A copy of the pilot study report which looked into a focussed interview approach to age determination undertaken by the DIBP in mid-2010.*

Documents in scope

1. Department document: Age Determination Training, Power Point Presentation – dated August 2013 – containing 32 folios
2. Department document: Age Determination, APS 6 Triaging and Assessment Position Description – dated 2014 – containing 1 folio
3. Department document: PAM3: Act Identity, biometrics and immigration status, Age determination IMAs and SIEV crew – dated 15 May 2013 – containing 12 folios
4. Department document: Standard Operating Procedures, Age Determination for IMAs and SIEV Crew Assessment Process - version 6.4 dated 10 October 2014 – containing 72 folios
5. Department document: Age Determination Pilot Project June-October 2010 – Draft Report dated April 2011 – containing 56 folios

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records.

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone: 02 6264 1111 • Fax: 02 6225 6970 • www.immi.gov.au

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- departmental documents (identified above);
- consultation with the relevant business area; and
- the Australian Information Commissioner's (AIC) guidelines relating to access to documents held by government.

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

Deletion of exempt or irrelevant material under s.22 of the FOI Act

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

I have considered the scope of your request and I am satisfied that you are seeking access to information concerning the policy; procedures and training in relation to the age determination assessment. I am satisfied that staff names are irrelevant to the scope of your request. Therefore, staff names have been removed under s.22(1)(a)(ii) of the FOI Act.

The attached Schedule of Documents identifies documents where material has either been deleted as exempt information under the FOI Act or deleted as irrelevant to the scope of the request.

Conditional exemption - certain operations of agencies - s.47E(d)

A document is 'conditionally exempt' under s.47E of the FOI Act if its release, amongst other things, would or could reasonably be expected to 'have a substantial adverse effect on the proper and efficient conduct of an agency.' A conditionally exempt document **must** be released under the FOI Act unless the release would be 'contrary to the public interest'.

During consultation with the relevant business area specific operational material was identified as having a substantial adverse effect on the proper and efficient operations of the age determination process if released. The release of this information would allow individuals to circumvent the interview process, and the release of internal mailboxes would have an adverse impact to the day to day operations of the sections that manage those mailboxes. This could lead to delays in the processing of genuine age determination referrals; should the mailboxes receive additional correspondence.

I am satisfied that the release of the material I have deleted as exempt under section 47E(d) is conditionally exempt. I must now consider the factors set out in the public interest test in s.11B(3) of the FOI Act.

Factors favouring disclosure

I am required to consider the following factors:

- (a) promote the objects of the this Act (including all the matters set out in sections 3 and 3A);*
- (b) inform debate on a matter of public importance;*
- (c) promote effective oversight of public expenditure;*
- (d) allow a person to access his or her own personal information.*

I consider that the release of the documents would promote the objects of the FOI Act.

However, having regard to the nature of the information I do not consider that the specific operational material exempt under s.47E(d) would further inform debate on a matter of public importance. I do not consider that the release of the specific operational material exempt under s.47E(d) would be relevant to the effective oversight of public expenditure

In addition, the release of the documents would not facilitate you accessing your own personal information.

Factors weighing against disclosure

The AIC has issued Guidelines that contain a list of factors weighing against disclosure which must be considered under s.11B(5) of the FOI Act. However, this list is not an exhaustive list and agencies may consider further factors when considering the public interest test.

I consider that these factors are relevant to the documents in question:

- could reasonably be expected to prejudice the agency's ability to obtain information;
- could reasonably be expected to prejudice the agency's ongoing operations with respect to the age determination process;
- could reasonably be expected to prejudice the effectiveness of the age determination process;
- could reasonably be expected to prejudice the fair treatment of individuals undertaking an age determination assessment.

On balance, I am satisfied that release of the exempt material would be contrary to the public interest and that the documents are exempt in part under section 47E(d) of the FOI Act.

Documents subject to legal professional privilege – s.42

A document is exempt under s.42 of the FOI Act if it contains information that would be privileged from production in legal proceedings on the grounds of legal professional privilege (LPP).

The AIC Guidelines provide that I must consider the following factors when considering whether information would be subject to LPP:

- whether there is a legal adviser-client relationship
- whether the communication was for the purpose of giving or receiving legal advice, or use in connection with actual or anticipated litigation
- whether the advice given is independent
- whether the advice is confidential.

Having regard to these factors and in consultation with the business area, I am satisfied that the documents contain information that would reveal legal advice. The legal advice was provided to the business area in a legal adviser-client relationship and the information is confidential. In addition, the department does not wish to waive LPP.

I am therefore satisfied that the information identified in the documents and listed in the Schedule of Documents is exempt under s.42(1) of the FOI Act.

Documents affecting national security, defence or international relations – s.33

A document is exempt under s.33 of the FOI Act if its release, amongst other things, would or could reasonably be expected to, cause damage to ‘the international relations of the Commonwealth’.

The AIC Guidelines provide the following advice on the impact to international relations:

5.30 The phrase ‘international relations’ has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them.[16] The exemption is not confined to relations at the formal diplomatic or ministerial level. It also covers relations between government agencies.[17]

5.31 The mere fact that a government has expressed concern about a disclosure is not enough to satisfy the exemption, but the phrase does encompass intangible damage, such as loss of trust and confidence in the Australian Government or one of its agencies.[18] The expectation of damage to international relations must be reasonable in all the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship.[19] There must also be real and substantial grounds for the conclusion that are supported by evidence.[20] These grounds are not fixed in advance, but vary according to the circumstances of each case.

5.32 For example, the disclosure of a document may diminish the confidence which another country would have in Australia as a reliable recipient of its confidential information, making that country or its agencies less willing to cooperate with Australian agencies in future.[21] On the other hand, the disclosure of ordinary business communications between health regulatory agencies revealing no more than the fact of consultation will not, of itself, destroy trust and confidence between agencies

Having regard to the information identified as causing damage to international relations; the advice extract from the AIC guidelines and; consultation with the relevant business area, I am satisfied that the information identified in the documents and listed in the Schedule of Documents is exempt under s.33(a)(iii) of the FOI Act.

I note during consultation the relevant business area raised further arguments to support the consideration of an exemption for this information, under s.37 and s.47E of the FOI Act. However, as I am satisfied the material is exempt under s.33 I have not turned my mind towards these further exemptions.



Janelle Raineri
Authorised decision maker
FOI & Privacy Policy Section
Parliamentary and Executive Coordination Branch
Department of Immigration and Border Protection

Phone (02) 6264 1580
Email foi@immi.gov.au

18 November 2014



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 14/08/00200

File Number ADF2014/27679

1. **Department document:** Age Determination Training – Power Point Presentation – dated August 2013 – containing 32 folios

Folio	Description	Decision	Legislation
1	Age Determination Assessors Training Course	Released in full	
2	Age Determination Branch, NatO Irrelevant material includes staff names	Released in part: Irrelevant material	s. 22(1)(a)(ii)
3-5	Assessors Training Course continued	Released in full	
6-7	Age Determination Branch, NatO Age Determination - Network Irrelevant material includes staff names	Released in part: Irrelevant material	s. 22(1)(a)(ii)
8-17	Assessors Training Course continued	Released in full	
18-20	Administration Pre Interview Interview Process Exempt material includes operational information	Exempt in part	s. 47E(d)
21-34	Assessors Training Course continued	Released in full	

2. **Department document:** Age Determination – APS 6 Triaging and Assessment Position Description – dated 2014 – containing 1 folio

Folio	Description	Decision	Legislation
1	Position Description	Released in full	

3. **Department document:** PAM3: Act – Identity, biometrics and immigration status - Age determination – IMAs and SIEV crew – dated 15 May 2013 – containing 12 folios

Folio	Description	Decision	Legislation
1-12	PAM3 Age Determination policy document	Released in full	

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone: 02 6264 1111 • Fax: 02 6225 6970 • www.immi.gov.au

4. Department document: Standard Operating Procedures – Age Determination for IMAs and SIEV Crew – Assessment Process - version 6.4 dated 10 October 2014 – containing 72 folios

Folio	Description	Decision	Legislation
1	Standard Operating Procedures Age Determination for IMAs and SIEV Crew	Released in full	
2-3	Version Control Related Documents Irrelevant material includes staff names	Released in part: Irrelevant material	s. 22(1)(a)(ii)
4-5	Table of Contents Exempt material includes operational information	Exempt in part	s. 47E(d)
6-11	Age Determination – Assessment Process	Released in full	
12	Referral of IMAs for Age Determination Exempt material includes operational information	Exempt in part	s. 47E(d)
13	Age Determination – Assessment Process	Released in full	
14-18	Age Determination Process Procedures at time of boat arrivals Exempt material includes operational information	Exempt in part	s. 47E(d)
19-20	Age Determination – Assessment Process	Released in full	
21-22	Age Determination Process The Interview – areas of inquiry Exempt material includes operational information	Exempt in part	s. 47E(d)
23	Age Determination – Assessment Process	Released in full	
24	Age Determination Process BE Holders Exempt material is subject to legal professional privilege	Exempt in part	s. 42
25-28	Age Determination – Assessment Process	Released in full	
29	Attachments Exempt material includes operational information	Exempt in part	s. 47E(d)
30	Age Determination – Assessment Process	Released in full	
31	Attachment A – Age Determination Protocol Post 19 July 2013 OPC Caseload Exempt material includes operational information	Exempt in part	s. 47E(d)
32	Attachment A continued	Released in full	
33	Attachment B Exempt material includes operational information	Exempt in full	s. 47E(d)
34	Attachment C – Age determination referral procedures and referral template	Released in full	

35	Attachment C continued Exempt material includes operational information	Exempt in part	s. 47E(d)
36	Attachment C	Released in full	
37-49	Attachment D – Interview preambles and closing statements	Released in full	
50-53	Attachment E – Assessment Report Exempt material includes operational information	Exempt in part	s. 47E(d)
54-55	Attachment E continued	Released in full	
56-57	Attachment F – Email template regarding age determination assessment outcomes Exempt material includes operational information	Exempt in part	s. 47E(d)
58-64	Attachment G – Notification Attachment H – Notification Attachment I – Notification Attachment J – Notification Attachment K – Notification Attachment L – Notification Attachment M – Notification	Released in full	
65	Attachment N – Review process, referral template and interview preamble Exempt material includes operational information and material subject to international relations.	Exempt in part	s. 47E(d) s. 33(a)(iii)
66-69	Attachment N continued	Released in full	
70	Attachment O – Review outcome notifications	Released in full	
71	Attachment P – Daily report template Exempt material includes operational information	Exempt in part	s. 47E(d)
72	Attachment P continued		

5. Department document: Age Determination Pilot Project June-October 2010 – Draft Report dated April 2011 – containing 56 folios

Folio	Description	Decision	Legislation
1-11	Age Determination Pilot Project (Draft Report)	Released in full	
12	Age Determination Pilot Project (Draft Report) e. Stakeholder engagement Irrelevant material includes staff names	Released in part: Irrelevant material	s. 22(1)(a)(ii)
13	b. Preparation Exempt material includes operational information	Exempt in part	s. 47E(d)
14-16	Age Determination Pilot Project (Draft Report)	Released in full	

17	a. Suggested Principles – Age Determination Exempt material includes operational information and material subject to legal professional privilege	Exempt in part	s. 47E(d) s. 42
18-22	Age Determination Pilot Project (Draft Report)	Released in full	
23-26	Attachment A	Released in full	
27-30	Guidelines for Paediatricians	Released in full	
31-32	Attachment C	Released in full	
33-34	Guidelines for conducting Interviews to assess disputed minor claims – Pilot Process	Released in full	
35-37	Guidelines for conducting Interviews to assess disputed minor claims – Pilot Process continued Areas of inquiry Exempt material includes operational information	Exempt in part	s. 47E(d)
38-40	Guidelines for conducting Interviews to assess disputed minor claims – Pilot Process continued	Released in full	
41-44	Guidelines for conducting Interviews to assess disputed minor claims – Pilot Process continued Suggested questions / Areas of inquiry Exempt material includes operational information	Exempt in part	s. 47E(d)
45-46	Guidelines for conducting Interviews to assess disputed minor claims – Pilot Process continued	Released in full	
47-48	Form For Pilot	Released in full	
49-50	Statutory Declaration form	Released in full	
51-54	Attachment E	Released in full	
55-56	Age Determination Workshop 19 April 2011 Irrelevant material includes staff names	Released in part: Irrelevant material	s. 22(1)(a)(ii)

Attachment C – Extract of relevant legislation

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an *edited copy*) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the

regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the Commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

Note: See also subsection 4(10).

42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
- (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.

Note: For *operational information*, see section 8A.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).



Australian Government
Department of Immigration
and Citizenship

Age Determination

Assessors Training Course

people our business

Age Determination Branch, NatO

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

people our business

AGE DETERMINATION $\neq mc^2$

Age Determination Pilot 2010

- To respond to an increasing number of asylum seekers arriving on SIEVs claiming to be minors (including after arrival) – concerns that some were adult – possibly in their 30s
- In mid 2010 the department piloted a focussed interviewing approach.
- This process was not about determining a person's chronological age.
- It is about forming a view that the person is more likely to be over or under 18
- Taking a range of factors into account.
- Interviewing officers took a low-key, commonsense approach to the interview. The clients were aware that the interview was being conducted for the purposes of testing the veracity of their claim to be a minor. The client was accompanied by an independent support person.
 - Of the 69 the following outcomes were noted:
 - 2 clients voluntarily reverted to their original date of birth;
 - 9 clients were not interviewed due to time constraints;
 - 33 clients were found to be over 18;
 - 2 clients have subsequently turned 18 and;
 - we continued to treat 23 clients as minors.

SIEV Crew

- Since Nov 2011 DIAC has been responsible for Age Determination assessments for crew.
- Assessments are likely to be scrutinised including by the courts

people our business

•Brendan O'Connor former Min for Home Affairs, AND now our Minister, announced last year that DIAC was now responsible for age determination for Indonesian crew. Prior to that the AFP were.

•Crew claiming to be minors who are in the process of being prosecuted have been subjected to wrist x-rays – permitted under the Crimes Act

•Courts have been questioning the reliability of these x-rays – process based on a limited target group – AFP have been using a non – specialist radiologist to assess wrist x-rays – criticised in court and the government has received significant criticism.

•Age determination of crew will be subject to significant scrutiny – especially those where the client is found to be an adult – we can expect these assessments to be challenged in courts

•NB. Recidivist minor crew can be prosecuted by the AFP

• Not likely to happen now, BUT crew with cancelled CJSC visas will not undergo an age determination assessment. Once AFP, always AFP.

Age Determination Branch, NatO

s. 22(1)(a)(ii) – Assistant Secretary,
Community Support & Children Branch

s. 22(1)(a)(ii) – Director, Age Determination Team,
Community Support & Children Branch

s. 22(1)(a)(ii) – Assistant Director, Age
Determination Team, Community Support & Children
Branch

people our business

Age Determination - Network

s. 22(1)(a)(ii) - Regional Manager
Status Resolution, South

s. 22(1)(a)(ii) - Director
Compliance, Status Resolution Victoria.

s. 22(1)(a)(ii) - Manager
Identity Verifications Victoria

people our business

Age Determination -Interviewers

- IMA Recruitment NatO
- Deployment model
- Future – dedicated workforce

people our business

Age Assessment

Dr Diana Birch
Youth Support UK

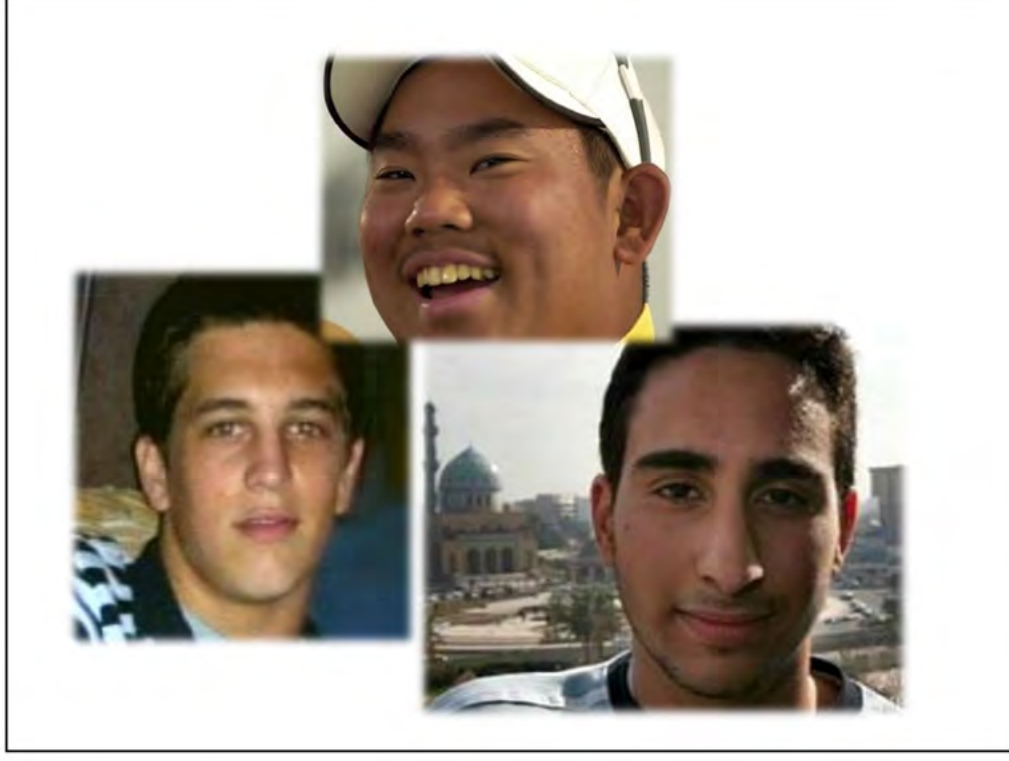
About the Author

- Dr Diana ML Birch is a medical doctor who holds innumerate qualifications in various fields including Paediatrics, Psychology, Tropical Medicine and surgery. She has wide experience with children and adolescents, including asylum seekers in the UK.
- Dr Birch founded a not for profit organisation called "Youth Support" in the UK which includes services such as child protection, family assessment, family disorder, alcohol and substance abuse as well as work with refugee minors.
- Dr Birch holds Fellowships of the Royal College of Physicians, the Royal College of Paediatrics and Child Health (UK) and the Society for Adolescent Medicine (USA).



Released by DIBP under the
Freedom of Information Act 1982











Age Determination Statistics @ 28.2.2013

IMA POST PILOT AGE DETERMINATION OUTCOMES, BY LOCATION		
LOCATION	CASES INTERVIEWED	ASSESSED AS AN ADULT
Christmas Island	975	473
Northern Territory	180	64
South Australia	37	23
Inverbrackie	3	3
CD	4	4
Port Augusta	29	15
Re-interviewed	1	1
Western Australia	49	33
Perth APOD	2	1
Perth IRH	1	1
Curtin	4	4
Leonora	41	26
Yongah Hill	1	1
Queensland	7	5
Scherger	7	5
Victoria	20	18
CD	14	14
MITA	2	0
Melbourne Office	4	4
NSW	12	6
CD	8	3
Elizabeth St, Sydney	2	1
SKSA	2	2
ACT	1	0
TAS	1	1
TOTALS	1282	623

Indonesian Crew			
Location	Minors	Adults	Total
Darwin	23	29	41
CI	63	106	169
Client Total	86	135	221
Caseload Percentage	38.91%	61.09%	

48.60%

Table does not include SIEV Crew or reviewed cases.



The minimum documentation required before conducting an age determination interview is as follows:

Bio data form *if available*— print from TRIM file or copy originals;

Client's photograph – print from ISR via CCMD or ICSE;

Relevant cultural information related to the client;

Relevant documents held by the client or located on the client or vessel ;

SERCO property lists may show if any documents are listed in client's personal property dossier – if any exist obtain them either with clients consent or via a written s18 request; and

s. 47E(d)

In addition the following documents should be obtained if available:

Client Identity Form (CIF). These forms are prepared by the Compliance and Status Resolution Identity Teams based in Perth, Sydney and Melbourne;

Copy of Entry Interview;

Look for statements, claims or offers by the client about their ability to obtain identity documentation from home country or other countries of residence;

Copy of RSA/POE interview report;

Any relevant information TRIMed in relation to the outcome of the client's "alive call"

Observational reports from SERCO, IHMS or Case Managers relating to the client's behaviour and demeanor while in detention; and

s. 47E(d)

Prepare interview location

Ensure availability of recording equipment and batteries etc;

Water – for interviewers, clients, interpreters and Independent person; (currently Maximus Solution

Availability of suitable interview table and sufficient chairs;

Pre Interview

- Interview should be conducted as soon as possible following arrival/referral
- Admin Team is responsible for undertaking research and providing copies of available documentation (eg. Arrival interview) and supply of recording equipment.
- Interviewers examine all available information and ensure interview room meets health and welfare needs of client and staff.

people our business

NB. It is very important to check in advance with Detention Operations, Case Management and SERCO in the location of the proposed interviews to establish an agreed local protocol for advising them of the outcome of interviews, especially where the outcome is that a previously minor client is found to be an adult. Detention placement decisions are **not** the responsibility of age determination interviewers. These are generally made by Detention Operations and Case Management and the centre management.

Detention placement is not Age Det responsibility but we are required to advise the appropriate people ASAP so THEY can make detention placement decision

Avail information includes:

- Bio data, client photo, relevant cultural info, any relevant documents held by client or located on client or vessel. Other documents that may be available – Entry i/v, RSA/POE i/v rpt, any relevant info located in TRIM or other systems.
- Any observation reports from SERCO, IHMS or case managers

s. 47E(d)

Room set-up ----- duty of care and proper safe guards

Interview Process

- Interviews conducted by two trained DIAC officers
- One officer acts as the lead interviewer
- Each officer makes a separate assessment, records their own notes and writes a separate assessment report
- Where one officer assesses the client as a minor, that is the outcome.

people our business

NB. It is very important to check in advance with Detention Operations, Case Management and SERCO in the location of the proposed interviews to establish an agreed local protocol for advising them of the outcome of interviews, especially where the outcome is that a previously minor client is found to be an adult. Detention placement decisions are **not** the responsibility of age determination interviewers. These are generally made by Detention Operations and Case Management and the centre management.

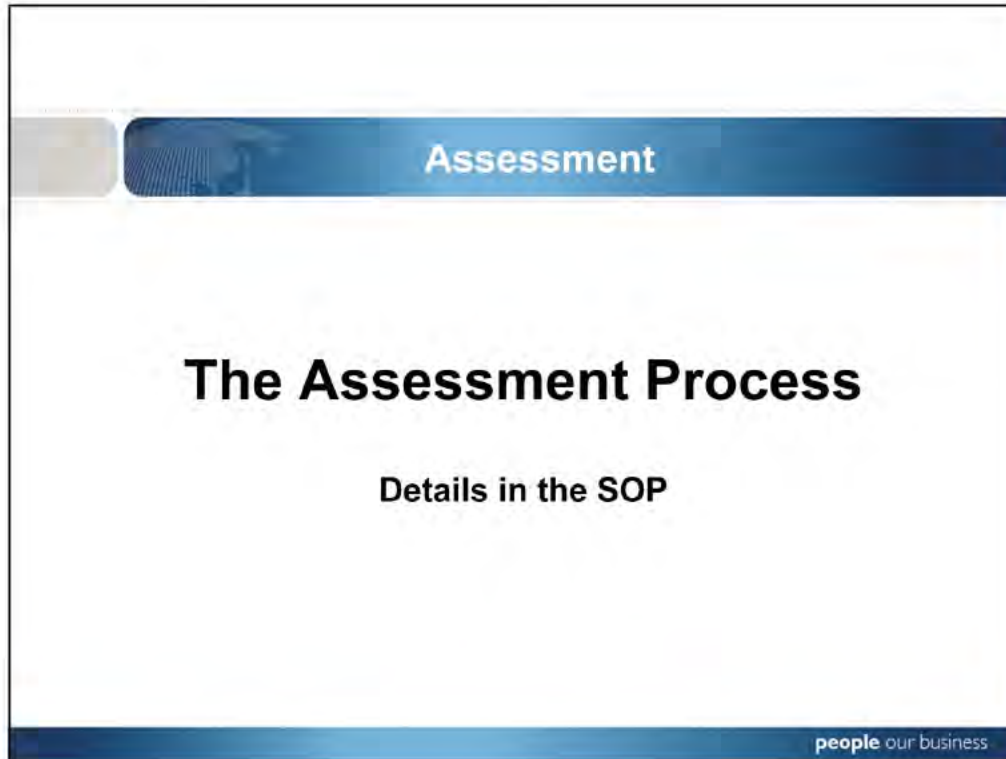
Detention placement is not Age Det responsibility but we are required to advise the appropriate people ASAP so THEY can make detention placement decision

Avail information includes:

- Bio data, client photo, relevant cultural info, any relevant documents held by client or located on client or vessel. Other documents that may be available – Entry i/v, RSA/POE i/v rpt, any relevant info located in TRIM or other systems.
- Any observation reports from SERCO, IHMS or case managers

s. 47E(d)

Room set-up ----- duty of care and proper safe guards



Two trained DIAC Interviewing officers (APS 6 level)

Interpreter and independent person (currently Maximus Solution)

NB. Interview to be conducted recognising that client **may be a minor**.

Interview

Focussed Chronological Interview

people our business

Conduct **chronological interview** - exploring following lines of enquiry:

- family composition and history;
- education/employment history - for self and for family members;
- Social history and independence; and
- Noting observations about client's demeanour, behaviour and physical appearance during interview and any reports and observations from other agencies.

When all questioning complete – client, independent person and Interpreter asked to wait outside while Assessors confer.

There is no right way of conducting these interviews

BUT there are many wrong ways

- It will take only one badly handled case to undo the whole process
- It is NOT a compliance interview
- It is a conversation with a potential minor (must keep this in the front of your mind all the time
- scrutiny of the process will focus on this – remember i/vs are taped and can be

reviewed.

Techniques

- It is NOT an interrogation
- It is a conversation
- Listen to client and establish rapport
- Follow pathways from client's statements
- Do not always ask direct questions
- Do not work through a list of questions.
- Have some themes you would like to explore
- Cases usually take 2 hours

people our business

•Not an interrogation – we are not trying to “crack” clients (They may be children...). This is where criticism is likely to be focused. Length of interview can be portrayed as “ordeal” and “not child friendly”

•Interviews are tiring – need to work as a team – allow each person to follow and exhaust their line of questioning before starting a new one – be careful not to interrupt their flow – ie support your colleague

•Think about indirect questions eg. rather than how old **are** you – try how old **were** you when....

•But be conscious of signals when your partner is running out of questions - work out some signals for changing tack or if the other person wants you to take over.

•Take lots of notes

•Listen and think about some follow up questions – but especially LISTEN

•pay particular attention to the detail in their answers which can generate other lines of enquiry.

•Then ask lots of the W questions – what, when, where, who, why? and how? People usually cannot lie in detail

•Remember the “and then what happened?” question – good way of keeping the flow going.

•Avoid leading questions - unless you want to specifically confirm something previously said by the client. Eg. don't ask “Did you..” Ask “What did you do when....”

Interview Techniques continued...

- Be culturally aware & conscious of your body language
- Let client tell their story & observe their behaviour body language
- Map out timeline
- Gather new information & challenge/affirm old

people our business

- Important to build rapport & get client to open up. I.e. get the client to talk
- Allow client to be as expansive as possible on each topic - leave clarifications till later
- Clients have little incentive to comply - so being blunt or forceful is rarely useful (counter productive)
- Move from the general to the specific
- Be absolutely familiar with what the client has told us already
- The key word is patience. Respect doesn't hurt either.
- You need to be alert to things that might particularly engage a client (interests in computers? football? Cricket?)
- Don't get impatient about digressions or tangents (in fact, encourage and follow them)
- Concentrate on getting a dialogue going and worry about the specifics later
- Sometimes best to ask question you know to answers to – sets a truthful answer base line – but “tells” are only sign to interviewer that answer may not be true – but not why. - care not to based written finding on “tells”
- Professional approach – poker face, don't show emotion – not to be confused with need to establish rapport

Interpreters

- Form a partnership and work with your interpreter
- Keep language simple and avoid jargon
- Use short sentences
- Don't confuse interpreter's demeanour with the client's demeanour.

people our business

- Pick somebody in the group and read them a passage and ask them to explain to the class what you just said.
- Talk to interpreter before commencing interviews,
- Let them know what you are doing
- Keep sentences short
- If reading a long passage eg. In the preamble to the interview – consider giving the interpreter a copy of the wording.
- Encourage them to clarify questions, use of “the hand...”
- Also stress on them NOT to try and make what the client is saying make sense, if it is not. Ask them to tell you if what the client is saying when this is confusing or not clear or rational. You are trying to get a sense of the client thinking and where they may be struggling to maintain a false story
- Some interpreters have strong personalities – others are quite passive – be careful

to not attach an interpreters personality/ demeanour to the client



****EXTRA CLICK TO BRING UP SECOND PICTURE**

We need to look at the whole picture and use all the available information.

Every assessment should be made:

In the context of all available information

Assessment Reports

- Record your observations
- Form a view on whether the client is an adult or minor against each element
- Conclusions do not need to be lengthy, but should express your views or opinion
- Sum up observations and write a conclusion.

people our business

- Note your observations then draw your conclusions from those observations – usually a combinations of observations.
- Don't make categorical statements eg "he is obviously adult" but express your opinion eg "I formed the view based on his ...that he is adult"
- DON'T use stereotypes eg "typical Afghan adolescent"
- Avoid vague generalisations which are not supported by observations.
- Very difficult – but, don't confuse maturity with age – there may be reasons for a minor to act in a mature way eg. Survival on the streets, hard life, even just personality. Sometimes best to acknowledge these possibilities in assessment – you can still form the view that on balance the person is probably an adult.
- Often you will have little to go on – i.e. when client is vague, provides little concrete information (i.e.. "don't remember", "I can't recall", "the people smuggler said to say that". "I was dizzy/confused after the voyage". "my mother told me". You can note the vagueness, conflicting information, evasiveness etc and draw your conclusions taking this into account.

Post Interview – IMAs

- All relevant parties should be notified of i/v outcome eg. Admin Team, SERCO, etc
- Send assessment reports & notification to Team Leader Pontville or Director, CSR Victoria to QCC & sign. Copy to Director, Age Determination, NatO and Age Determination mailbox
- Admin support to update corporate systems and TRIM relevant documents – details in SOP

people our business

Post Interview – SIEV Crew

- All relevant parties should be notified of i/v outcome eg. Age Determination Team, AFP, SERCO, etc
- Send assessment reports & notification to Director, CSR Victoria to QCC & sign, copied to Director, Age Determination, NatO and Age Determination mailbox
- Admin support to update corporate systems and TRIM relevant documents – details in SOP

people our business

WORK PLAN

- Developed as part of CR09 in July 2103
- Provides visibility to all CCMD users of age determination activity for a particular client
- Historical data progressively being entered

people our business

REVIEWS

- Can be sought if new information of identity documents become available
- Can be requested by anyone in contact with the client
- Triaged by EL1 in IMA Identity Teams or the Determination Team Leader at Pontville
- Considered by Director, Age Determination NatO

people our business

Age Determination - Risks

theguardian

£2m paid out over child asylum seekers illegally detained as adults

Legal case involved 40 youngsters who were locked up in adult
units under Home Office policy deemed to be unlawful

Diane Taylor

The Guardian, Friday 17 February 2012 21:34 GMT

people our business

- Process scrutinised by the courts in the UK including the Supreme Court which has essentially decided that age is a “matter of fact” to be determined by courts.....
- Formal Age determination in the UK is primarily handled by local councils via their social services agencies
- The UK Border Agency guidelines says clients are to be treated as adults “if their physical appearance and demeanour **Very strongly suggests** that they are **significantly** over 18 years of age” assessing are directed to get a ‘second pair of eyes’ to make a separate assessment. If any doubts they refer the client to social services for assessment,
- The above payout relates to 40 children “some...were locked up for more than a month...”
- Lawyers argues that Home Office officials with no specialist knowledge or experience of working with children simply looked at the appearance and demeanour....some were “....subjected to distressing interviews with immigration officers who were not trained to deal with children” – later found to be minors by social services.



Australian Government
Department of Immigration and Border Protection

Position Description

Position Number: Classification: Job Title: Division/Region: Branch: Section/Unit:	VARIOUS APS LEVEL 6 AGE DETERMINATION TRIAGING & ASSESSING OFFICER VARIOUS
<p>Overview:</p> <p>Assessing if a person is a minor or an adult is an important factor in the process of determining placement and allocation of appropriate services provided to individuals, particularly those in immigration and community detention.</p> <p>An Age Determination Triaging and Assessing Officer is responsible for operational aspects of the age determination programme. This includes triaging individuals for an age determination assessment, undertaking interviews/assessments, assisting with pre-interview research, stakeholder liaison and providing assistance to the Admin Support Team.</p> <p>Specific Duties:</p> <ul style="list-style-type: none">• Manage the operational aspects of the age determination programme to deliver quality outcomes within strict timeframes;• effective liaison with various internal and external stakeholders to deliver and promote the age determination programme, escalating issues to the Identity EL1;• triage individuals to determine if referral is required for a formal age determination assessment;• undertake age determination interviews/ assessments;• work in partnership with the other APS6 Age Determination Triaging and Assessing Officer in delivering outcomes;• oversight daily reports regarding activity levels;• continually review work place procedures and practices to identify opportunities for business improvement within the operating environment;• provide support to the Admin Support Officer (APS4); and• as necessary, assist other business lines. <p>Qualifications:</p> <p>This position requires excellent administrative and time management skills. The occupant will be a trained age determination assessor who possesses significant interviewing experience in other business lines (excluding Arrival/Entry interviewing), well developed written skills and strong liaison and negotiation skills.</p> <p>The Age Determination Triaging and Assessing Officer must be able to identify issues and escalate appropriately.</p> <p>In addition, occupants of this position must be flexible and resilient in order to respond to operational needs in a sometimes challenging work and "home" environment.</p>	

PAM3: Act - Identity, biometrics and immigration status

Age determination - IMAs and SIEV crew

ABOUT THIS INSTRUCTION

Contents

This instruction provides policy and procedure on the age determination process that applies if there are concerns regarding whether an irregular maritime arrival (IMA) or suspected illegal entry vessel (SIEV) crew member is a minor or an adult.

The principal purpose of an age determination assessment is to inform detention placement decisions and the provision of services. The process does not determine the person's age but, rather, assesses if the person is more likely than not to be a minor (or an adult).

In the case of alleged SIEV crew (that is, alleged crew members of SIEVs), the outcome of an age determination assessment will inform the decision whether a case may proceed to prosecution by the Australian Federal Police (AFP) of people smuggling offences.

The instruction comprises.

- [Introduction](#)
- [Roles and responsibilities](#)
- [Referral for age determination](#)
- [The age determination process](#)
- [Review of age determination assessments](#)
- [Further information.](#)

Related instructions

- [PAM3: Refugee and Humanitarian - Age determination](#) (relevant to protection visa caseload only)
- [PAM3: Act - Identity, biometrics and immigration status - Undocumented arrivals - Levels of identity assurance](#)

Latest changes

Legislative

Nil.

Policy

This instruction, which is new to the centralised departmental instructions system (CDIS), was issued on 15 May 2013.

Owner

Age Determination Team
Community Support and Children Branch
Community Programs and Children Division
National Office.

In consultation with:

Onshore Protection Branch
Refugee, Humanitarian and International Policy Division
National Office

email

age determination/IMMI/AU

Contents summary

Introduction.....	4
1 Purpose.....	4
2 Background	4
3 Recording a date of birth.....	5
4 SIEV crew – AFP prosecution for people smuggling offences	5
Roles and responsibilities	6
5 Background	6
6 Roles and responsibilities	6
Referral for age determination	8
7 Who will undergo an age determination	8
The age determination process	9
8 The interview process	9
9 Role of independent observer.....	9
10 Legal representation	9
11 Areas of enquiry	9
12 The assessment	10
Review of age determination assessments.....	11
13 After the assessment.....	11
Further information.....	12

INTRODUCTION

1 Purpose

The purpose of this instruction is to provide an overview of the age determination assessment process in relation to persons in the IMA and SIEV crew caseload who purport to be minors.

2 Background

The issue of age determination is not unique to Australia and there is continued conversation across asylum seeker receiving countries regarding the most appropriate and reliable means of assessing whether a person is a minor or an adult.

A significant number of IMAs and alleged SIEV crew arrive in Australia with little or no identification documentation such as passports or birth certificates. Many are unable to obtain such documentation after arrival - for various reasons, including that in some source countries identification documents such as birth certificates do not exist.

Previously, if there was no available evidence to the contrary, the department had given the benefit of the doubt to IMAs and alleged SIEV crew members who claimed to be minors. The department used this approach to address the risk of detaining a minor in an adult detention facility.

In the absence of documentation or other objective evidence, determining whether a person is a minor or an adult is difficult and sometimes controversial:

- Other agencies have previously used the results of wrist X-rays to determine a person's age. However, experience has found this method to be unreliable.
- It is not possible for document examiners to make a conclusive assessment on the veracity or genuineness of documents that are not originals. In instances where documentation *is* produced, it is mostly in the form of photocopies or scanned copies sent by email. In the case of IMAs, for various reasons (including sur place issues) these documents cannot be checked for veracity with the issuing authority. Forged and fraudulently obtained documentation is common in many countries from which asylum seekers flee or transit en route to Australia.

In addition to the issue of detention placement, persons who are assessed as minors are provided with a different set of services, specific to minors. Also, certain persons who are assessed as minors and who are unaccompanied by a parent or adult relative may fall within the Minister's guardianship under the Immigration (Guardianship of Children) Act 1946.

Development of the focussed interview process

In mid-2010, the department piloted a focussed interview approach to assess the credibility of client claims to be minors. In part, the pilot was developed in response both to those servicing persons in detention and to settlement providers who manage unaccompanied humanitarian minors (UHMs). There were concerns expressed that a number of persons claiming to be minors may not have been under 18. The interview approach was not about determining a person's chronological age, but to form a view as to whether a person was more likely than not to be over (or under) 18, taking into account a range of factors.

On 23 June 2011, the department's Executive Committee (EC) agreed that the focussed interview developed for the pilot be adapted into a "business as usual" process.

International Health and Medical Services (IHMS), which took part in the pilot in an independent advisory role, subsequently decided not to participate further in that capacity.

The First Assistant Secretary of the department's Community Programs and Children Division (previously the Principal Advisor, Citizenship Settlement and Multicultural Affairs who conducted the pilot) consulted with representatives of the Detention Health Advisory Group (DeHAG) (now known as the Immigration Health Advisory Group - IHAG), which advised that:

- the interview approach used by the department in the pilot is the most credible method in forming a view about age for immigration purposes and

- the involvement of an external person in the process was unnecessary for immigration purposes and, in their view, there is no one person who could, or would, fill this role.

This advice was conveyed to, and endorsed by, the Council for Immigration Services and Status Resolution (CISSR, now known as Minister's Council on Asylum Seekers and Detention - MCASD).

3 Recording a date of birth

On 22 June 2011, the department's EC endorsed policy that, if a person's exact age is unknown, the default date of birth to be recorded is:

- 31/12/ of the year of birth declared by the person or
- if an age is declared, 31/12/ of the year that makes the person that age

This date is to be recorded in departmental systems and the assessment record.

Under this policy, the default date of 31/12/ year is to be used for both minors and adults whose date of birth is unknown. If a person provides an actual date of birth (DOB) that does not alter the age assessment outcome of "minor" or "adult", the date provided by the person is to be recorded in departmental systems.

4 SIEV crew – AFP prosecution for people smuggling offences

In November 2011, Government decided that the department would assume responsibility from the Australian Federal Police (AFP) for initial assessment of whether alleged SIEV crew members were minors or adults, using the age determination process used for IMAs.

When alleged SIEV crew members are identified, the department uses information in departmental systems and resources such as biometric matching to ascertain whether a crew member has previously been to Australia.

Once an outcome has been reached in relation to age determination, the alleged SIEV crew member may then be referred to the AFP for consideration of prosecution for people smuggling offences.

The department refers SIEV crew members to the AFP if the alleged crew member:

- is assessed by the department as being over 18 or
- self-identifies as an adult or
- regardless of whether they are a minor or an adult, has been to Australia as a SIEV crew member on a previous occasion or been removed as an illegal foreign fisher (IFF).

Alleged SIEV crew members, both minors and adults, are also referred to the AFP if the department becomes aware that the alleged crew members have been involved in serious criminal activity such as sexual assault or murder, or were identified as people smuggling organisers during the voyage.

Those alleged SIEV crew members who:

- are assessed by the department as minors
- have not previously arrived in Australia as SIEV crew or IFFs
- have not been involved in serious criminal activity during the voyage and
- are not seeking Australia's protection

are removed from Australia using existing removal processes.

ROLES AND RESPONSIBILITIES

5 Background

The age determination process is a complex activity and not a precise or scientific process. The level of proof in relation to age determination is based on a “balance of probabilities” test.

Development of policy and procedures requires close engagement at a senior level with external organisations including the Commonwealth Ombudsman, Australian Human Rights Commission, MCASD and IHAG, all of whom scrutinise the department’s actions in relation to age determination.

Also, age determination assessments for alleged SIEV crew may be subject to challenge in the courts, especially if the outcome was that the person was over 18 and a prosecution for people smuggling is subsequently launched. It is important therefore that officers undertaking these assessments be aware that their assessments could be subject to judicial challenge.

6 Roles and responsibilities

The Age Determination Team, National Office, is responsible for policy and program management, training, quality assurance, external stakeholder engagement, reviews and reporting.

The service delivery network, under the leadership of the Regional Manager, Status Resolution South (in the department’s Melbourne Office), is responsible for all operational aspects of the business and is referred to as the Age Determination Lead State.

The roles and responsibilities of officers involved in the age determination process are summarised below.

Community Support and Children Branch

- Policy and program management
- Reporting
- Quality Assurance
- Training
- Reviews
- Stakeholder engagement.

Lead State

- Quality control checking age determination assessment reports for interviews conducted at all locations (except Christmas Island - see role of Team Leader Christmas Island) if the person has been found to be an adult, and sign notifications.
- Quality assurance of a sample of assessment reports if persons were found to be minors and interviews were conducted at any location other than Christmas Island.
- Quality control checking of all alleged SIEV crew assessment reports and sign notifications.
- Manage the age determination program from an operational perspective.

Status Resolution Identity Team Manager

- Day-to-day operational management and supervision of age determination process in detention centres and community detention locations in their line of responsibility.
- Daily reporting to the Age Determination Team, National office.

Team Leader Christmas Island

- Management of the age determination program on Christmas Island.
- Quality control checking all assessments except alleged SIEV crew and sign notifications.
- Represent the age determination program at Executive meetings on Christmas Island.
- Performance development management.

Age Determination Interviewing Officers

- Conduct a chronological interview to arrive at an assessment outcome and, at the completion of interviews, orally inform clients of determinations.
- Complete assessment reports.

Administrative Officer Christmas Island

- Manage local stakeholder engagement.
- Day to day operational management of the age determination process on Christmas Island.
- Reporting
- Compilation of reference information repository.

Administrative Support Role

- Administrative tasks, pre- and post-interview.

IMA Recruitment

- National coordination of age determination staffing.

REFERRAL FOR AGE DETERMINATION

7 Who will undergo an age determination

The following will undergo age determination:

- IMAs who on arrival claim to be a minor - if, as identified by the Age Determination Team Leader or Detention Operations, there is doubt in relation to that claim.
- An IMA who claims on arrival to be an adult but subsequently claims to be a minor (or the reverse), unless the person is obviously a minor.

IMAs who come to the attention of departmental officers or of service providers such as IHMS or SERCO may also be referred if there is concern regarding the initial assessment of minor or adult status.

SIEV crew

All alleged SIEV crew claiming - either on or subsequent to their arrival - to be minors will undergo an age determination process.

There have been instances of SIEV crew having previously been removed from Australia following detection as an illegal foreign fisher or SIEV crew member. In these cases, authorities will have issued travel documents to facilitate the person's removal and the department will use these travel documents as forms of identity.

THE AGE DETERMINATION PROCESS

8 The interview process

Age determination interviews are conducted by two trained age determination officers with the assistance of an interpreter and in the presence of an independent observer.

Each age determination interviewing officer actively participates in the interview, but makes an individual assessment and report.

Throughout the course of the interview, clients will be given an opportunity to respond to any concerns about their account.

At the conclusion of the first part of the interview, the client, the interpreter and the independent observer are asked to wait outside the room while the interviewing officers discuss their individual assessments.

If both interviewing officers form the view that, on the balance of probabilities, the person is an adult (or is a minor), that is the department's considered assessment. If interview outcomes do not align, the person is given the benefit of the doubt and is assessed as a minor.

In reaching a view as to whether a person is an adult or a minor, interviewing officers are to recognise that this is not a precise or scientific process. They should therefore err on the side of caution when making an assessment of "adult". An assessment of adult should be based on the balance of probabilities. All persons who undergo an age determination process receive formal notification of the outcome. Notification letters do not include copies of the assessments. If a person requests a copy of their interview assessments, these can be sought through established FOI processes.

9 Role of independent observer

The attendance of an independent observer at all age determination interviews supports the department's approach that a client be treated at interview as a minor unless or until an assessment is made to the contrary.

The role of the independent observer is to ensure that person's care and wellbeing. It is not the independent observer's role to advocate on the person's behalf.

10 Legal representation

Immigration Advice and Application Assistance Scheme (IAAAS) providers (if allocated) and legal representatives for alleged SIEV crew are not normally present at age determination interviews. This is because the assessment is primarily for detention placement purposes and potential referral to the AFP for possible prosecution of alleged SIEV crew.

If the person is found to be an adult, an IAAAS provider or legal representative can, through established FOI processes, seek a copy of the notification.

11 Areas of enquiry

The interview involves a focussed chronological exploration of lines of enquiry including the person's:

- physical appearance
- behaviour and demeanour
- family composition and history
- education and employment and
- social history and independence.

Any comparisons/expectations in relation to the person's responses are considered, taking into account cultural and religious norms and environment as relevant to the person.

12 The assessment

Age determination interviewing officers must take into account all responses at interview, their observations and any relevant documentation that the person provides.

It is open to the assessors to explore at interview the possible existence of any identity documents and the current whereabouts of such documents.

Persons are encouraged to provide documentary proof of their age from their home country. Any documentary evidence produced will be considered on its merits. However, emailed copies of documents will be given little evidentiary weight because document examiners cannot assess genuineness nor, due to possible sur place issues, can documents be referred to the country of issue for verification .

The two interviewing officers will form independent views as to whether the person is a minor or an adult.

Note: Age determination interviews and assessments will not, in most cases, result in establishing a person's actual age or DOB. The principal purpose is to assess whether the person is a minor or an adult for the purposes of detention placement and whether alleged SIEV crew must be referred for possible prosecution by the AFP.

REVIEW OF AGE DETERMINATION ASSESSMENTS

13 After the assessment

Following an age determination assessment the person's departmental record is not to be altered to change their status from adult to minor (or the reverse) unless a formal review is undertaken. Those reviews are conducted by the Director, Age Determination Team, National Office.

An age determination assessment may be reviewed if new documentary or other evidence relevant to a person's status as a minor or an adult becomes available. For all such review requests, document examination results (if applicable) and the reasons for the request are taken into consideration.

The Age Determination Team will also conduct an annual review of persons still in detention who were age determined to be minors but were assessed to be unlikely as young as claimed. Any documentary evidence produced will be considered on its merits.

As stated previously, however, many documents, particularly emailed copies of documents, will be given little evidentiary weight because the department cannot ascertain their genuineness. If emailed or faxed copies of documents are received, the person is to be encouraged to obtain the originals. Case Managers may be able to assist persons in obtaining these documents but should be mindful of sur place issues.

If a SIEV crew member receives an external determination

If a *court* makes a determination in regard to the age of a SIEV crew member, the date of birth and/or the age determined by the court will stand and be accepted by the department unless the matter was interlocutory.

If an alleged SIEV crew member provides supporting documents in relation to their age after an age determination interview has been conducted

If:

- an age determination interview of an alleged SIEV crew member has been conducted that finds the person to be an adult
- identity documents are later presented that indicate the person is a minor

the documents should be forwarded to the Director, Age Determination Unit, National Office, for urgent review.

FURTHER INFORMATION

For more information on the age determination process, contact the Director, Age Determination Team, National Office.

STANDARD OPERATING PROCEDURES
AGE DETERMINATION FOR IMAs AND SIEV CREW
ASSESSMENT PROCESS

Version 6.4 [10 October 2014]

UHM, Children and Age Determination Support Section, Natio

Community Support & Children Branch

Community Programmes & Children Division

Released by DIBP under the
Freedom of Information Act 1982

Age Determination - Assessment Process



Australian Government

Department of Immigration and Border Protection

Age Determination Standard Operating Procedures Assessment Process

Version Control

Version	Description	Officer
1.0 [02.09.2011]	Process documented	s 22(1)(a)(ii)
2.0 [21.09.2011]		
3.1 [22.09.2011]		
4.02 [23.09.2011]		
4.03 [27.09.2011]		
4.03.1 [19.10.2011]		
4.04. [23.11.2011]		
4.05 [28.11.2011]		
4.06 [01.12.2011]		
4.09 [27.08.2012]		
4.10 [10.10.2012]	Include pre and post 13 August 2012 interview preamble.	
4.11 [17.10.2012]		
4.12 [21.12.2012]	Transition of function to CSCB	
5.00 [05.02.2013]	Review and update	
5.1 [12.02.2013]	Updated – policy section moved to separate doc	
5.2 [15.02.2013]	Amendments	
5.3 [18.02.2013]	Amendments	
5.4 [21.02.2013]	Amendments	
5.4 [23.04.2013]	Amendments	
5.5 [15.05.2013]	Amendments	
5.6 [16.05.2013]	Amendments	
5.7 [24.06.2013]	Amendments	
5.8 [02.07.2013]	Amendments	
5.9 [26.08.2013]	Amendments and addition of RPC transfer information	
6.0 [01.11.2013]	Amendments	
6.1 [03.02.2014]	Amendments	
6.2 [27.05.2014]	Amendments	
6.2 [28.05.2014]	Amendments	
6.3 [31.07.2014]	Addition of annual minor review proformas	
6.4 [10.10.2014]	Amendments	

Authorisation and review of the latest version

Officer	Position	Role	Actioned
s 22(1)(a)(ii)	Director, UCADSS	Approval	10.10.2014

Age Determination - Assessment Process

Related Documents

Title	Author
Age Determination Intranet page as amended	s 22(1)(a)(ii)
Age Determination PAM "IMAs and SIEV Crew"	
Local Standard Operating Procedures – Age Determination Team Christmas Island	Age Determination Team, CI

Age Determination - Assessment Process

Table of Contents

PROGRAMME OVERVIEW.....	6
Purpose of the Age Determination Programme.....	6
Background	6
Key Principles	6
AN OVERVIEW OF THE AGE DETERMINATION PROCESS	8
ACRONYMS	9
PURPOSE	10
ROLES AND RESPONSIBILITIES	10
Community Support and Children Branch (NatO).....	10
Lead State.....	10
Status Resolution Identity Teams Manager.....	10
Age Determination Manager, CI.....	11
Age Determination Assessing Officers	11
Administrative Support Role - all locations	11
IMA Recruitment	11
REFERRAL OF IMAS FOR AGE DETERMINATION	12
Who will undergo an Age Determination assessment.....	12
Sources of referral for Age Determination assessment	12
Referral process - IMAs	12
Referral process – SIEV crew	12
AGE DETERMINATION PROCESS.....	14
PROCEDURES AT TIME OF BOAT ARRIVALS.....	14
Age Determination Triage process.....	14
s 47E(d)	14
Triaging for Offshore Processing.....	15
Recording triage outcomes.....	15
Communication of triaging outcomes	16
Presentation of identity documents prior to interview.....	16
Pre- interview process	17
Documentation	17
Interview arrangements	18
THE INTERVIEW PROCESS.....	19
Two hour time limit.....	19
Role of Independent Observer.....	20
Legal Representation.....	20
The Interview – areas of inquiry	20
The Assessment.....	23
BVE Holders	24
Annual Review – Minors	25
Post interview Procedures	25
Service Standards	26
Recording Age Determination outcomes in ICSE, CCMDS & TRIM.....	26
Naming conventions for Age Determination documents	27
Age Determination Work Plan in CCMDS	27
REVIEW OF AGE DETERMINATION ASSESSMENTS	28
REPORTING.....	29

Age Determination - Assessment Process

OFFSHORE PROCESSING CENTRES	29
-----------------------------------	----

ATTACHMENTS.....	29
------------------	----

ATTACHMENT A – Age Determination Protocol Post 19 July 2013 OPC Caseload	31
ATTACHMENT B – s 47E(d)	33
ATTACHMENT C – Age determination referral procedures and referral template	34
ATTACHMENT D – Interview preambles and closing statements	37
ATTACHMENT E – Assessment Report	50
ATTACHMENT F – Email template regarding age determination assessment outcomes	56
ATTACHMENT G – Notification – adult – pre 19 July 2013 arrival.....	58
ATTACHMENT H – Notification – adult – arrival on or after 19 July 2013	59
ATTACHMENT I – Notification – adult crew	60
ATTACHMENT J – Notification – minor arrived pre 19 July 2013	61
ATTACHMENT K – Notification – annual minor review	62
ATTACHMENT L – Notification – minor – arrived on or after 19 July 2013	63
ATTACHMENT M – Notification – minor crew	64
ATTACHMENT N – Review process, referral template and interview preamble.....	65
ATTACHMENT O – Review outcome notifications	70
ATTACHMENT P – Daily report template	71

PROGRAMME OVERVIEW

Purpose of the Age Determination Programme

The primary and immediate purpose of Age Determination is to ensure IMAs and SIEV crew are accommodated appropriately, cognisant of all associated risks, and to ensure the welfare and duty of care to these persons. All subsequent considerations about age and entitlements must take into account the outcome of the age determination assessment together with other available evidence.

The age determination programme also facilitates the referral of certain SIEV crew to the Australian Federal Police (AFP) for possible prosecution.

Background

The Department is aware that a number of Illegal Maritime Arrivals (IMAs) falsely claim to be minors, including after arrival, as there are perceived advantages. These include access to education and other services and a view that there will be faster migration processing for family members living overseas.

Concerns have also been expressed by stakeholders that some crew of Suspected Illegal Entry Vessels (SIEVs) who bring IMAs to Australia may be purporting to be minors on arrival in Australia to avoid prosecution for people smuggling offences.

The Australian Government decided in November 2011 that the Department would be responsible for undertaking an age determination assessment of all SIEV crew who claim to be minors. Once determined as a minor by the Department, this status will be accepted by all agencies concerned with people smuggling. Minor crew will be removed as soon as practicable unless they are found to be recidivists or have been involved in criminal behaviour on the voyage.

Key Principles

The Age Determination Programme has been developed with the key principle of best practice, including compliance with the Department's child protection approach. The Department has sought to establish an age determination programme based on best practice, in a field where there is no single effective method and approaches used by other agencies, such as the use of bone x-rays, have been found to be unreliable. While identity documents can be useful, when they are provided they are often not originals and for various reasons (including sur place issues) cannot be checked for veracity with the issuing authority.

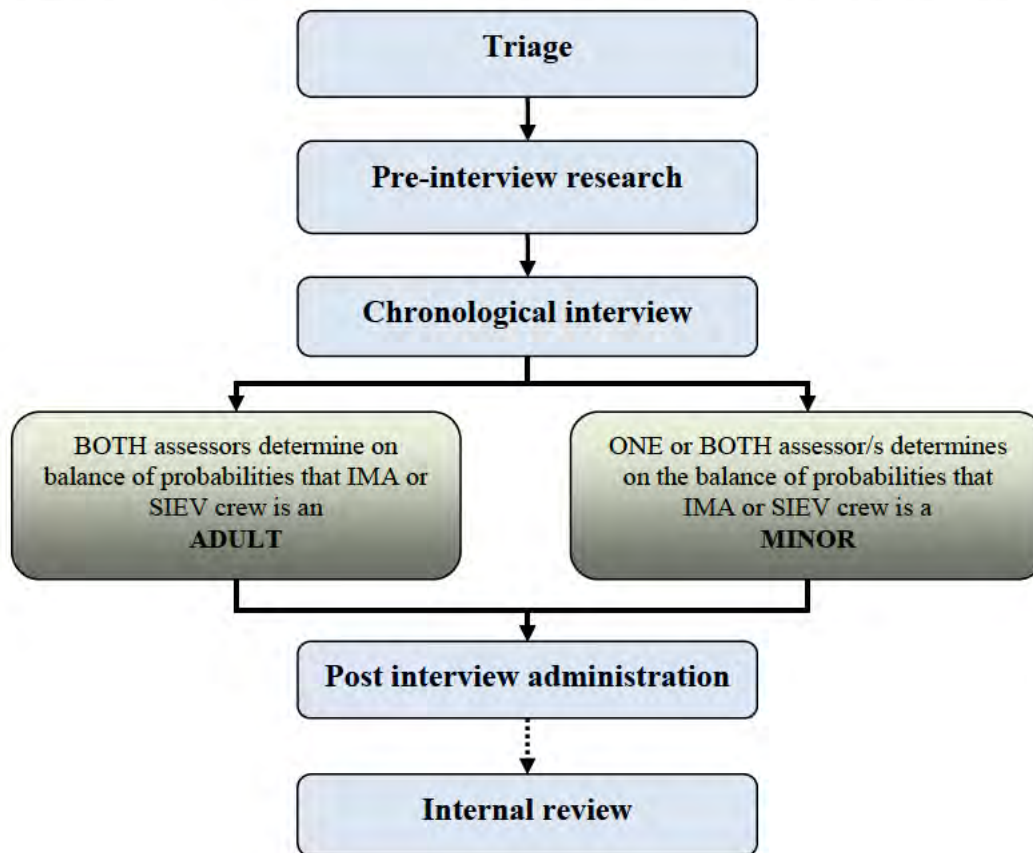
The Age Determination Programme is also underpinned by the principle that, unless clearly and significantly over 18, persons whose status as a minor is in dispute will be treated as a child, until such time as they turn 18 or the outcome of their age determination assessment finds them more likely than not to be an adult.

The programme does not dispute at the margins, but aims to err on the side of caution and where the assessor is not reasonably satisfied that a person is an adult, they will be assessed as more likely than not a minor. In addition, where the two assessing officers differ in their outcomes, the person will be afforded the benefit of the doubt and assessed as more likely than not a minor.

Age Determination - Assessment Process

Age Determination assessments must be conducted in a manner consistent with the guiding principles of the Department's child protection approach. Assessing officers are to keep these principles in mind at all times.

AN OVERVIEW OF THE AGE DETERMINATION PROCESS



Age Determination - Assessment Process

ACRONYMS

AFP	Australian Federal Police
AGD	Attorney-General's Department
AHRC	Australian Human Rights Commission
APOD	Alternative Place of Detention
BAU	Business as Usual
Bio data	Biographical Data
CCMDS	Compliance Case Management Detention Settlement
CI	Christmas Island
CIRST	Case Integrity Referral Support Tool
CISNET	Country Information Support Network
DEU	Document Examination Unit
DIBP	Department of Immigration and Border Protection
EA	External Agency
EC	Executive Committee
IAAAS	Immigration Advice and Application Assistance Scheme
ICSE	Integrated Client Services Environment
IHMS	International Health and Medical Services
IFFs	Illegal Foreign Fishers
IMA	Illegal Maritime Arrival
IMMINet	DIBP intranet
IMtel	Integrated Management Intelligence System
IO	Independent Observer
IRC	Identity Resolution Centre
ISR	Immigration Services Repository
JIG	Joint Intelligence Group
MCASD	Minister's Council on Asylum Seekers and Detention (Formerly CISSR – Council for Immigration Services and Status Resolution)
NatO	National Office DIBP
OPC	Offshore Processing Centre
PV	Protection Visa
SIEV	Suspected Illegal Entry Vessel
TPV	Temporary Protection Visa
UAM	Unaccompanied Minor
UCADSS	UHM, Children and Age Determination Support Section

PURPOSE

The purpose of this document is to provide advice and guidance to departmental officers conducting age determination assessments in relation to persons in the IMA and SIEV crew caseload where their status as a minor or an adult is in dispute.

This document is to be read in conjunction with the Procedures Advice Manual “Age Determination - IMAs and SIEV crew”.

ROLES AND RESPONSIBILITIES

The UHM, Children and Age Determination Support Section in National Office is responsible for policy and programme management, case reviews, training, quality assurance, external stakeholder engagement, reporting, preparation of briefs and other material and statistics.

The service delivery network, under the leadership of the Regional Manager, Status Resolution South (located in the Department’s Melbourne Office), is predominantly responsible for operational aspects of the business and is referred to as the Age Determination [Lead State](#).

The roles and responsibilities of officers involved in the age determination process are detailed below.

Community Support and Children Branch (NatO)

- Policy and programme management;
- Managing claims made by clients at an OPC;
- Liaison with external agencies including the Ombudsman, AHRC, MCASD, AFP and AGD;
- Development and delivery of training;
- Statistics and Reporting;
- Quality Assurance;
- Preparation of Senate Estimates Briefs, submissions and other ad-hoc briefs; and
- Review of age determination assessments when additional information or documentation has been received.

Lead State

- Quality control checking of age determination assessment reports and signing of notifications for interviews conducted at all locations except CI - see role of [Age Determination Manager CI](#) - where the person has been found to be an adult, where the assessments differ, and for all SIEV crew;
- Quality assurance of assessment reports where the person has been found to be a minor for interviews conducted at locations other than CI; and
- Management of the age determination programme from an operational perspective.

Status Resolution Identity Teams Manager

- Day-to-day operational management and supervision of age determination process in detention centres and community detention locations in their line of responsibility; and
- Reporting activity to the Age Determination area in NatO.

Age Determination - Assessment Process

- Triaging of requests for review of age determination assessments.

Age Determination Manager, CI

- Management of the age determination programme on CI;
- Performance management of age determination staff on CI;
- Management of Triaging process on CI ;
- Quality control checking of all assessment reports except SIEV crew, and sign notifications;
- Representing the age determination programme at Executive meetings at CI and reporting on age determination activities;
- Management of local stakeholder engagement;
- Reporting; and
- Oversight of the mentoring programme.

Age Determination Assessing Officers

- Participating in triaging as required;
- Conducting a focussed interview using the methodology described in this document;
- Forming an assessment and verbally advising the person of the outcome at the completion of interview; and
- Completion of an assessment report in the format provided in the assessment section of this document.

Administrative Support Role - all locations

- Completion all tasks in line with pre and post interview administrative instructions contained in this document.

IMA Recruitment

- National coordination of age determination staffing.

REFERRAL OF IMAs FOR AGE DETERMINATION

Who will undergo an Age Determination assessment

Where an IMA's claimed status as either an adult or a minor is in dispute, they should be referred for an Age Determination assessment. This may occur on arrival or at a later stage. Individuals who are clearly under the age of 18 need not be referred, s 47E(d)

All SIEV crew members who claimed to be less than 18 years of age must undergo an age determination assessment, unless subject to a biometric match indicating a prior arrival in Australia. In addition, an age determination assessment should be conducted for SIEV crew who claim to be adults but there is doubt about their status.

Sources of referral for Age Determination assessment

Referrals for an Age Determination assessment may come from internal and external sources, including but not limited to:

- Case managers;
- Entry teams;
- Detention Services Provider;
- Health Services Provider;
- Community Detention Contact Officers
- Other agencies, such as Customs, AFP, External Agency, education providers;
- PV, TPV or Bridging visa teams; or
- UHM providers after PV or TPV grant.

Referral process - IMAs

Referrals should be sent to the following addresses:

Person's location

For NSW, Qld and ACT:

For Vic, TAS and SA:

For CI:

For WA:

For NT :

Contact email address

s 47E(d)

The age determination referral procedures and template are at [Attachment C](#).

Referral process – SIEV crew

All SIEV crew claiming to be minors, either on arrival or subsequently, must be referred for an age determination assessment.

In cases where a biometric match is generated prior to the age determination assessment, the previous identity recognised by their home Government will be accepted and an assessment is not required.

Age Determination - Assessment Process

Where there are concerns that a SIEV crew member claiming to be an adult may actually be a minor, a referral should be sent to the relevant age determination mailbox.

It is the responsibility of Detention Operations staff to ensure that a list of SIEV crew self-identifying as a minor is sent to the relevant mailbox, as soon as the information becomes available, after arrival of a SIEV.

AGE DETERMINATION PROCESS

An age determination assessment for an IMA person must be undertaken as soon as practicable following receipt and acceptance of a referral.

SIEV crew should not be interviewed until the results of biometric checks are available as there has been a notable increase in the number of recidivists for whom the Department holds a recognised identity.

PROCEDURES AT TIME OF BOAT ARRIVALS

Age Determination Triage process

The following triage process is designed to identify those persons at boat arrival stage who are to be referred for formal age determination assessments. It also makes provision to remove from formal age determination consideration those claimed unaccompanied minors who are undisputedly under 18. The triage process is designed to manage the risk that a child may be accommodated with unrelated adults while awaiting an age determination assessment.

To ensure that the Age Determination Team responsible for the arrival location receives the necessary referrals from newly arrived boats, an Age Determination Officer will attend Detention Operations nominal roll processing, which is undertaken as soon as possible after a SIEV arrives.

The Age Determination Officer will have a preliminary conversation with each individual claiming to be under 18, to establish their basic claims and determine whether an assessment is required. This should be undertaken in conjunction with the Detention Operations and / or Case Management Assistant Director (EL1), to ensure that individuals are appropriately accommodated.

SIEV crew are **not** subject to the triage process. All SIEV crew who claim to be under 18 must undergo an age determination assessment.

Triaging notes should be made and saved to each detainee's TRIM file.

s 47E(d)

Age Determination - Assessment Process

s 47E(d)

Triaging for Offshore Processing

During the triage process, the Age Determination Assessing Officer must also approach persons claiming to be 18 to 20 years of age. A short discussion should be conducted to verify their claim of being an adult. Where the officer is satisfied that the person is an adult, no further action is required. Where there is doubt about the person's claim, they should be referred for formal assessment. This process has been implemented to ensure that people who are actually under 18 are not inadvertently transferred as adults. Further information relating to this process can be found at [Attachment A](#) - Age Determination Protocol Post 19 July 2013 Offshore Processing Centre (OPC) Caseload.

Recording triage outcomes

All officers must make contemporaneous notes of their assessment and later record the outcome in departmental systems (i.e. ICSE, CCMDS & TRIM).

All triaging notes should be saved to each individual detainee's Trim file, using the following naming convention:

BOAT ID – SURNAME, Given name - Age Determination – Triaging notes

s 47E(d)

Triaging for Offshore Processing

The below text should be used in the ICSE client of interest note:

<<On DD/MM/YY detainee was triaged for transfer to offshore processing. Age Determination CI did not identify any concerns with claimed adult status.>>

In addition, an Age Determination Work Plan should be raised in CCMDs with a Request Received task (referral), a 'No Longer Required' status, and the above text included in the 'Comments' field. The Work Plan should be finalised with a status of 'Complete' and an Outcome of 'Not Assessed'.

Communication of triaging outcomes

After conducting the triage of new arrivals, the Age Determination Manager or, in locations where there is no Age Determination Manager, an Age Determination Assessing Officer (APS6), must send an email to the local Director, Detention Operations and Case Management (i.e. EL2s), copied to the Detention Operations and Case Management mailboxes, confirming which persons have been referred for a formal age determination assessment.

If an individual advises a change to their date of birth during the triage process that results in a change to their status as a minor/adult, and there is no reason to question this new date of birth, this should be confirmed with the person and advice provided to Detention Operations by email. Where a SIEV crew member advises a date of birth that makes them an adult, unless there is concern that this may not be the case an age determination assessment does not need to be completed.

In order to discourage people from providing incorrect dates of birth, it is important to emphasise during triaging that any false information provided by an individual may be taken into account during future processes. They should be asked what it means to them to be a UAM, e.g. access to education, different accommodation and perceived ability to sponsor family or exclusion from transfer to an OPC. Please note any messages regarding transfer to an OPC are undertaken through formal messaging and should not be addressed during triaging.

Presentation of identity documents prior to interview

Officers should note that there is a high level of fraud in the IMA caseload, particularly in relation to identity documents.

Where a person provides the Department with an identity document and it is assessed to be genuine by the Document Examination Unit (DEU) or other qualified source, the identity contained in that document will be accepted for the purpose of age determination. Where there is evidence that the document has been altered, but the bio data page is intact, it is open to the Director, UHM, Children and Age Determination Support Section National Office, to recommend whether the document should be accepted.

Where an individual provides a birth certificate which is assessed to be genuine, they should be asked to provide a genuine identity document containing a photograph, to assist in verifying the birth certificate.

Age Determination - Assessment Process

If the individual is unable to provide the supporting document, the birth certificate should nonetheless be taken into account and accorded relevant weight, but it should not be considered to be conclusive evidence of the individual's age.

In instances where a person states a document which has been assessed as genuine was obtained by fraudulent means and contains an inaccurate date of birth, assessors must take this information into consideration. Due weight should be given to other factors that suggest the person is a minor or an adult and the possible motivation in them making such a claim. Assessors may also consider referring the document and the person's claims to the responsible post for comment but should ensure they flag possible *sur place* issues in any request.

Assessors could also ascertain if it is possible for a family member to provide other original and genuinely obtained identity documents to the relevant post or to the Department by mail. In cases that remain in doubt, assessors may accept the identity contained in original documentation for placement purposes but refer the matter for a formal identity assessment.

Pre- interview process

Primary bio - data records in ICSE and CCMDs MUST NOT be altered to change a person's status from minor to adult (or vice versa) UNTIL an age determination assessment has been made.

It is critical for age determination assessors to have before them all available information relating to the person prior to interview. The interview seeks to determine if the person is an adult or a minor based, in part, on his/her behaviour & demeanour, physical appearance, employment and education history (if any), family composition, level of social independence and information about their identity documents. Information already provided may help to establish timeline reference points and may prove critical in forming a view on the credibility of the person's claims.

Prior to interview, it is also important for assessors to have an understanding of the person's country situation in relation to cultural practices and societal norms. The Department's CISNET and Case Integrity Referral Support Tool (CIRST) found on the IMMINet are the preferred reference points.

Documentation

The following documentation (if available) should be obtained and considered:

- Age determination referral form – see [Attachment C](#);
- Bio data;
- Case Assessment Bio data (CAB);
- Arrival Interview;
- Pre transfer assessment (PTA);
- Person's photograph;
- Relevant country information – (e.g. CISNET and CIRST);
- Relevant documents held by the person or found on the vessel;
- SERCO property lists may indicate if any documents or computer devices are located in the person's personal property – if any exist they should be reviewed;
- s 47E(d)
- RSA/POD/PV interview report; and

Age Determination - Assessment Process

- Observation reports by SERCO, IHMS, AFP, Case Managers or any person in regular contact with the subject, relating to their behaviour and demeanour.

s 47E(d)

Interview arrangements

Age determination assessments are usually undertaken at the facility where the IMA or SIEV crew member is accommodated.

Age determination should occur as soon as practicable after an IMA or SIEV crew member arrives or makes a claim which may alter their adult or minor status.

Organise the interview schedule based on the availability of resources including an Independent Observer (IO), Interpreter and interview room. Advise SERCO and Detention Operations staff of the person's interview location and time. For more information about IOs, see [Role of Independent Observer](#).

Prepare the interview room ensuring:

- there is a table and enough chairs for each person attending;
- the room layout is appropriate for a minor i.e. as informal and non-threatening as possible;
- recording equipment is working;
- there is drinking water provided for the interviewee; and
- personal security and safety issues are assessed prior to interview and a duress alarm is obtained from SERCO if required.

Note: Detention placement decisions are not the responsibility of Age Determination. Detention Operations, Case Management and local centre management make decisions regarding a person's placement.

It is very important to check in advance with local Detention Operations, Case Management and SERCO to ensure there is a system in place to manage a person when an age determination outcome means accommodation arrangements will have to be changed, especially when this must occur very quickly.

Age Determination - Assessment Process

THE INTERVIEW PROCESS

The interview is conducted by two trained Age Determination Assessors with the assistance of an interpreter and in the presence of an IO. All interviews are recorded subject to the person's consent – see interview preamble.

The person should be afforded appropriate breaks and when requested during the interview. Throughout the course of the interview, the person will be given opportunities to respond to any concerns about their account. Both Age Determination Assessors are to actively participate in the interview but record their assessments independently. At the conclusion of the interview, the person, interpreter and IO are asked to wait outside the room while the Assessing Officers discuss their individual findings.

If both Assessors form the view that the person is more likely than not an adult (or a minor), that is the Department's considered assessment. If assessment outcomes differ, the person is found to be a minor.

An assessment of adult should be based on the balance of probabilities (i.e. more likely than not). In reaching a view on whether a person is an adult or a minor, assessors are to recognise that this is not a precise or scientific process. For cases at the margins, they should therefore err on the side of caution when making an assessment of "adult".

Once the two assessors reach a view, the person, interpreter and IO are invited back into the room and advised of the assessment outcome.

The person is provided a further opportunity to comment or to dispute the outcome. If the further information does not alter the Department's view, the interview is concluded and the person is advised accordingly.

All persons who undergo an age determination process will receive a notification letter. The notification letter does not include the assessment reports. Where a person requests a copy of the assessment reports, these can be sought through established FOI processes. However, some or all of the content of the reports may be exempt from release as they could compromise the integrity of the process.

In circumstances where a person claiming to be a minor makes an admission that they are an adult early in the interview, the interview must be completed as the information obtained may become relevant to future processes. However, the interview may not require the same level of enquiry under each element as would be the case where a person does not make an admission. In these cases, the assessing officers should explore/resolve any inconsistent statements the person may previously have made e.g. parents' and siblings' ages; periods of education and employment, marital status, etc. It would also be prudent to ascertain the person's reasons for initially claiming to be a minor and whether they are capable of making such an admission.

In cases assessed as adults, Assessors should note any vulnerability and ensure this is communicated to relevant departmental areas including Detention Operations and Case Management.

Two hour time limit

The approach supported by the Australian Law Reform Council and the United Nations is to hold juveniles for no longer than two hours for investigation after arrest. The two hour time limit for persons under 18 who are arrested is also legislated in the *Crimes Act 1914*. While IMAs who undergo age

Age Determination - Assessment Process

determination are not 'suspects' nor are they 'under investigation', this time limit is considered to be an appropriate reference point for conducting age determination interviews.

If Age Determination Assessors exceed the two hour time limit they must be able to justify the additional time, and ensure that appropriate and necessary breaks are taken. An example may be where the person has made an admission nearing the end of the two hours and officers wish to explore the reliability of the admission. The purpose of exceeding the time limit is not because Assessors cannot reach a level of satisfaction as to whether the person is an adult or a minor. If Assessors are not comfortably satisfied that the person is an adult at the end of two hours, they should find the person to be a minor.

Role of Independent Observer

An IO must be present at all interviews, including where the person has previously provided an adult date of birth. Their role is to ensure the care and wellbeing of the person. Maximus Solutions is currently contracted to provide IOs at a number of locations across Australia and on Christmas Island.

Where it is not possible to engage the services of Maximus Solutions staff, a suitable IO may be sourced from the local community (e.g. a chaplain, school teacher etc.). If an adult relative wishes to attend the interview of a claimed minor, they may do so on the clear understanding that they are there to observe and not participate in the process unless requested.

The attendance of an IO at all age determination interviews supports the Department's approach that a person be treated at interview as a minor unless or until an assessment is made to the contrary. An IO must be present, even where the person has provided an adult date of birth previously and now claim to be under 18.

The role of the IO is to ensure that person's care and wellbeing. It is not the IO's role to advocate on the person's behalf.

Legal Representation

Immigration Advice and Application Assistance Scheme (IAAAS) providers (if allocated) and/or legal representatives are not normally present at age determination interviews as the assessment is primarily for placement purposes and in the case of SIEV crew, potential referral to the AFP for possible prosecution.

As noted above, if a person is found to be an adult, the person, an IAAAS provider or legal representative can, through established FOI processes, seek a copy of the assessment reports. However, these reports may be exempt from release as they could compromise the integrity of the process.

The Interview – areas of inquiry

The following areas of inquiry are to be pursued at interview. A detailed interview preamble and format is at [Attachment D](#). The assessment report format is at [Attachment E](#).

All areas of inquiry and any comparisons/expectations in relation to the person's responses should be considered taking into account cultural, societal and religious norms and environment as relevant to the person.

Use open-ended questions as this will allow the person to disclose information without prompting and may present an opportunity for other lines of enquiry.

Age Determination - Assessment Process

All persons should be asked if they have any identity documents, either in Australia or elsewhere and their response to these questions should be specifically noted in the 'identity documents' section of the assessment report.

Physical Appearance

s 47E(d)

Behaviour/Demeanour

s 47E(d)

Family History

s 47E(d)

Age Determination - Assessment Process

s 47E(d)

Education/Employment

s 47E(d)

Social history/Independence

s 47E(d)

Age Determination - Assessment Process

Identity documents

The identity documents section of the assessment template provides Assessors with an ability to record information provided by the person regarding any documents they claim to hold to verify their identity. It also provides an area for discussion regarding the process for obtaining documents and the person's knowledge of what is contained therein.

Where a person states they have not held and do not have any identity documents, this should be recorded in the Identity Documents section of the assessment report for future reference. Assessors should also comment on the likely veracity of such a claim, given available country information relating to identity documents for nationals of that country.

The Assessment

Age Determination Assessing Officers must take into account all responses at interview, their observations and any documentation provided by the person. The two Assessing Officers are to form independent views as to whether the person is a minor or an adult. An assessment report is to be completed in all cases – refer to [Attachment E](#).

In reaching a view on whether a person is an adult or minor, Assessors should recognise that this is not a precise or scientific process and it may be subject to external scrutiny. They should therefore err on the side of caution when making an assessment of adult for cases at the margins. An assessment of adult should be based on the balance of probabilities (i.e. more likely than not).

As noted previously, the person will be given the opportunity to respond to the Assessing Officers' concerns in relation to their claims throughout the course of the interview. They will also be given reasonable opportunity to contest the Department's findings in relation to their status as a minor or an adult through the provision of new supporting information such as an original identity document. Assessing Officers should remind interviewees of the mailbox where they can send electronic copies of any identity or other documents.

In the UK context, the courts have provided some guidance on the principles which should be applied when conducting age assessments (the *Merton* judgement). In particular, where assessing officers form the view that the person is providing false information, officers must take care to ensure the person is given the opportunity to address the matters that have led to that view.

Any documentary evidence provided will be considered on its merits. However, emailed copies of documents will be given little evidentiary weight as Document Examiners cannot assess genuineness nor can documents normally be referred to the country of issue for verification due to potential *sur place* issues.

Note: Age determination interviews and assessments will not, in most cases, result in establishing the actual age or DOB of a person. The principal purpose is to make an assessment of whether the person is a minor or adult for placement purposes and allocation of appropriate services and for potential referral of SIEV crew to the AFP for possible prosecution.

Age Determination - Assessment Process

Split decisions

Where assessing officers differ in their assessment of a person's likely status, the benefit of the doubt will be accorded and that person will be found to be a minor.

Each officer should write their assessment as per their individual views and without reference to the findings or opinion of the other officer.

The assessment template at [Attachment E](#) includes standard text for noting a split decision outcome in the Final Conclusion section.

According dates of birth

Where a person assessed through the age determination process provides a specific date of birth, this should be recorded in corporate systems provided it aligns with the assessment outcome of minor or adult.

In cases where a person does not know their specific date of birth, their date of birth should be recorded as 31/12, and the year should be calculated based on their stated age. For example, if a person is found to be a minor in August 2013, and claims to be 17 years old at the time of the assessment but does not know their date of birth, they should be accorded 31/12/1996. This approach was endorsed by First Assistant Secretary, Community Programmes and Children Division on 30 January 2014.

BVE Holders

There have been a few cases where an IMA BVE holder has been referred to age determination for a primary assessment or formal review as their status as an adult is in dispute. Should this occur, the office conducting the interview must ensure an Independent Observer is present at the interview. This is in line with policy that a person be treated as a minor until found otherwise. Although in some instances, a person may have already been found to be an adult through a formal age determination assessment, the fact they are being re-interviewed is an indication there is a level of doubt regarding their status. We should therefore err on the side of caution in such cases through the presence of an IO.

The current contract with MAXimus Solutions to provide IO services does not extend to visa holders. Therefore, in cases where a BVE holder is required to attend an interview, the office conducting the assessment should contact NatO for advice on employing the services of an IO.

s 42

the following stakeholders should be advised of the age determination assessment outcome in order to make appropriate arrangements for the management of that person:

- Referring area;
- IMA BVE Processing Team in NSW;
- Unaccompanied Humanitarian Minors Operations and Children's Assessments Section, NatO who undertake IGOC assessments;
- CAS/ASAS area;
- Case Management responsible for UAMs location;
- Community Detention Referrals & Submissions, NatO;

Age Determination - Assessment Process

Annual Review – Minors

Where an age determination assessment has been undertaken and the outcome is that the person is a minor but at least one assessing officer is of the view that the person is possibly older than their claimed age, in accordance with the policy endorsed by the Executive Committee on 21 June 2011, the person's DOB is to be recorded as 31/12/of the year that makes the person their claimed age, or the actual date of birth declared by the person.

Any concerns regarding the claimed age should be noted in the 'Administrative Use' section of the assessment template.

People in this category will be reviewed annually which may involve another interview if the person remains in detention (including Community Detention). The re-interview will take into account any observations from those who are in close contact with the person such as teaching staff, health workers, service provide and other support workers and the Case Manager.

In cases where a person is re-interviewed, the process should mirror that of a primary assessment in that the officers make an assessment as to whether the person is more likely than not a minor or an adult, and advise the outcome at the conclusion of the interview.

Reporting from corporate systems will be undertaken by the UHM, Children and Age Determination Support Section in NatO who will coordinate the list of candidates who require annual review.

It remains open to an Assessor to refer the case for a full identity investigation.

Preamble, notification and record keeping for annual minor review cases

Annual minor review cases should use the relevant preamble in the attachments to this document, depending on the person's arrival date.

These cases should be recorded in CCMDs using the established procedures for primary cases, with the exception that the interview task subtype should be recorded as "annual minor review".

After the annual minor review interview, an email notification should be sent using [Attachment F](#).

The assessment reports should use the assessment template at [Attachment E](#). The notification letter to be provided to the individual's case manager, after the assessment reports are quality control checked, is at [Attachment K](#).

Post interview Procedures

Assessors are to complete an assessment report using the template at [Attachment E](#).

The assessment report must include a view on whether the person is a minor or an adult. This is to be based on all available evidence including evidence elicited at interview in relation:

- identity documents;
- employment/education history;

Age Determination - Assessment Process

- family composition;
- level of social independence;
- observations noted about the person's behaviour and demeanour ; and
- physical appearance.

The assessment should include reference to information which may provide timeline reference points that are critical in forming a view on the credibility of the person's claim they are a minor or an adult.

In preparing an assessment report all six elements should be addressed. Where it is assessed that a person is a minor but there are concerns that they may not be as young as claimed, this finding should be clearly noted in the final conclusion and the concerns noted in the 'Administrative Use' section.

In cases where a person is assessed as an adult, the Assessors must immediately advise the Age Determination Admin Officer of the outcome, highlighting any vulnerability present. Detention Operations and/or Community Detention, Case Management, Guardianship Policy Section and SERCO must also be advised – refer [Attachment F](#). Assessors must verbally advise SERCO officers *immediately* after the interview as there may be a need to adjust placement arrangements quickly.

Those who undergo a formal age determination process are provided with a written notification of the outcome. This notification is sent to Case Management for hand down following the QCC process. Notification templates are included at [Attachment G](#), [H](#), [I](#), [J](#), [L](#) and [M](#).

The AFP must be advised by email on the day of interview the outcome of SIEV crew who have undergone an age determination assessment.

Service Standards

Age determination interviews are to be conducted as soon as possible following receipt and acceptance of a referral.

SIEV crew should not be interviewed until the results of biometric checks are available as there has been a notable increase in the number of recidivists for whom the Department holds a recognised identity.

Interview assessment reports for IMAs should normally be completed on the day of interview, or at the latest within 48 hours following interview. Reports for SIEV crew must be completed and QCC'd within 24 hours of the interview.

Unless exceptional circumstances exist, interviews should not exceed **two hours** on the basis that persons are to be treated as minors.

Recording Age Determination outcomes in ICSE, CCMDS & TRIM

Age Determination Admin Support Staff are required to update ICSE with a Client of Interest (COI) note and include a note in CCMDS as follows:

Minors

- "Age determination assessment conducted on dd/mm/yyyy. During this assessment two departmental officers formed the view the person is under 18 years. The person's DOB is now dd/mm/yyyy" (ie. 31/12/26

Age Determination - Assessment Process

of their birth year according to their claimed age or the actual DOB if provided by the person that makes them <18).

Adults:

- "Age determination process conducted on dd/mm/yyyy. During this assessment, two departmental officers formed the view that the person is OVER 18 years. The person's DOB is now/remains 31/12/ of the year that makes them currently >18 (or actual DOB if provided by the person that makes them >18 years)

If there is a PV or TPV permission request in ICSE, an age determination event should be raised and the outcome recorded. This is in addition to recording a COI note.

ICSE & CCMDS must be updated if the recorded DOB does not align with the age determination assessment outcome.

Naming conventions for Age Determination documents

All relevant documents must be saved to TRIM on the person's pre-existing person file. The following naming conventions must be used:

Interview preamble and closing statement

BOATID – FAMILYNAME, GIVENNAME- DOB xx/xx/xxxx [CID:xxxxxxxxxxx](#) – Age Determination Interview Preamble and closing statement, date of interview.

Recordings

BOATID – FAMILYNAME, GIVENNAME- DOB xx/xx/xxxx [CID:xxxxxxxxxxx](#) – Age Determination Interview Recording, date of interview

Assessment reports

BOATID – FAMILYNAME, GIVENNAME- DOB xx/xx/xxxx [CID:xxxxxxxxxxx](#) – Age Determination Assessment XX (XX being the assessor's initials), date of interview.

Notification letters

BOATID – FAMILYNAME, GIVENNAME- DOB xx/xx/xxxx [CID:xxxxxxxxxxx](#) – Age Determination Notification, date of interview.

Age Determination Work Plan in CCMDS

The Age Determination Work Plan in CCMDS provides the ability to record age determination processes and outcomes for IMA and SIEV crew in a corporate system. For instructions on recording age determination activities in CCMDS, refer to the step by step guides – Primary ADD2013/1635993 and Review – ADD2013/1635968.

REVIEW OF AGE DETERMINATION ASSESSMENTS

Where an age determination process has been completed a person's date of birth must not be altered to change their status from adult to minor (or the reverse) unless a formal review is undertaken. Those reviews are conducted by the Director, UHM, Children and Age Determination Support Section in National Office.

An age determination outcome for a person who remains in detention (including CD), or has been granted a Bridging Visa E (BVE), may be reviewed if new documentary or other evidence of relevance to a person's status as a minor or an adult becomes available. In all review requests, document examination results, if applicable, and the reasons for the referral are considered.

Once a person leaves detention, including CD, any matters relating to their status as a minor or an adult may be referred to the UHM, Children and Age Determination Support Section in NatO for consideration as the Department may still have a duty of care. An example is where a person is granted a Protection Visa or a Temporary Protection Visa as an Unaccompanied Minor and is placed in a UHM household. Following this, the UHM service provider or other person in contact with the individual (e.g. a school teacher) then questions that individual's status as a minor.

Any person who has contact with the individual can initiate a review request through the process outlined in [Attachment N](#).

It is noted that medical reports may be submitted to support a request for review of an age determination outcome. These will be accorded relevant weight in the context of all the information held by the Department about the person.

As stated previously, however, many documents, particularly emailed copies of documents, will be given little evidentiary weight as the Department cannot ascertain their genuineness. If emailed or faxed copies of documents are received, the person is to be encouraged to obtain originals. Case Managers may be able to assist people in obtaining these documents but in doing so, must be mindful of potential *sur place* issues.

Where a SIEV crew member or IMA receives an external determination

In some circumstances a court may give a determination in regard to the age of a SIEV crew member or IMA. If this occurs, the date of birth and/or the age determined by the court will be accepted by the Department provided the matter is not interlocutory.

Where a SIEV crew member provides supporting documents in relation to their age after an age determination interview has been conducted

If:

- an age determination interview of an SIEV crew member has been conducted that finds the person to be an adult; and
- identity documents are later presented that indicate the person is a minor

the matter should be immediately raised with the Director, UHM, Children and Age Determination Support Section in National Office, for urgent review.

Age Determination - Assessment Process

The outcome of a review is to be recorded in ICSE by the Director of UHM, Children and Age Determination Support Section in NatO as a “Client of Interest” note. Any relevant change to the recorded date of birth is also to be included in ICSE and CCMDs. Written notification of review outcomes are signed by the Director, UHM, Children and Age Determination Support Section in NatO and sent to the officer who raised the review request to arrange for hand down usually by a Case Manager – refer [Attachment O](#).

REPORTING

Age determination assessments must be accurately recorded as soon as possible after the interview is conducted. A daily report in the format included at [Attachment P](#) must be completed by the Administrative Support Officer, or other nominated person, and sent to [REDACTED] s 47E(d) and copied to the Director, UHM, Children and Age Determination Support Section in NatO and the Director, Compliance Status Resolution, Victoria on days when interviews have occurred or new referrals received. Please note a ‘nil return’ when there has been no age determination activity at a particular site is not required.

Records should be maintained for all IMAs or SIEV Crew who have undergone an age determination assessment.

A monthly report is required from all locations where an Age Determination Manager is located. This report should be provided in a timely manner once end of month statistics are finalised. The report should be distributed to, at a minimum:

- Assistant Secretary, Community Support and Children Branch, National Office;
- Regional Manager, Status Resolution South;
- Director, UHM, Children and Age Determination Support Section, National Office; and
- Director, Status Resolution Victoria.

The template for the monthly report is available from the UHM, Children and Age Determination Support Section, National Office.

OFFSHORE PROCESSING CENTRES

Persons who arrive after 13 August 2012 but before 19 July 2013 are subject to transfer to an Offshore Processing Centre (OPC) where their claims for asylum will be considered. Persons who arrive on or after 19 July 2013 are subject to transfer to an OPC and possible resettlement outside of Australia.

OPC capacity to accommodate minors is limited. In cases where a person, after arriving at an OPC claims to be a minor, the protocol at [Attachment A](#) –Age Determination Protocol Post 19 July 2013 OPC Caseload should be followed.

ATTACHMENTS

- (A) [Age Determination Protocol Post 19 July 2013 OPC Caseload](#)
- (B) [REDACTED] s 47E(d)
- (C) [Age determination referral procedures and referral template](#)
- (D) [Interview preamble and closing statements](#)

Age Determination - Assessment Process

- (E) [Assessment Report](#)
- (F) [Email template regarding age determination assessment outcomes](#)
- (G) [Notification – adult pre 19 July 2013 arrival](#)
- (H) [Notification – adult for arrivals on or after 19 July 2013](#)
- (I) [Notification - adult SIEV Crew](#)
- (J) [Notification – minor for arrivals pre 19 July 2013](#)
- (K) [Notification – annual minor review](#)
- (L) [Notification – minor for arrivals on or after 19 July 2013](#)
- (M) [Notification – minor SIEV crew](#)
- (N) [Review process and referral template](#)
- (O) [Review outcome notification](#)
- (P) [Daily report template](#)

ATTACHMENT A – Age Determination Protocol Post 19 July 2013 OPC Caseload

Background

- Established age determination arrangements for arrivals include the Age Determination Team attending boat processing and triaging IMA persons whose claim of being a minor is in dispute/unclear.

s 47E(d)

- All SIEV crew claiming to be minors are routinely referred for a formal age determination assessment. This cohort receives priority consideration given DIBP's undertaking to the AFP to expedite processing.
- Prior to the introduction of triaging for OPCs, IMAs who claimed to be adults were not triaged/reviewed by the Age Determination Team.
- Where an IMA person's physical appearance and demeanour suggests they may not be over 18, Detention Operations can refer an IMA for consideration. Case Management and other service providers (e.g. International Health and Medical Services) can also refer an IMA for an age determination assessment.
- It should be noted that the focus for the pre-19 July 2013 group was not on IMAs who may be minors claiming to be adults as this was not a common occurrence.

Approach for cohort subject to placement in an offshore processing centre

- The Age Determination Team is engaged in the assessment of all arrivals.

s 47E(d)

- The team will also look at those claiming to be adults aged 18 to 20 years and have a short discussion with each of these IMA persons.
- Where the team is satisfied that the IMA is an adult and no issues related to age are raised, there is no need to undertake a formal age determination assessment.
- Where there is any doubt, the IMA should be formally assessed before being considered for transfer to an Offshore Processing Centre (OPC).
- Assessments made by the Age Determination Team on Christmas Island will be considered to be the definitive position on that IMA.
- Any subsequent claims related to age arising at an OPC should be referred to the Director, UHM, Children and Age Determination Support Section in the Community Support and Children Branch in NatO for consideration and advice.
- UHM, Children and Age Determination Support Section NatO will be responsible for consideration of any additional information and will provide an opinion to assist in the management of these transferees. This process could include consultation with staff on Christmas Island and assisting staff at an OPC to undertake further investigations, obtain any available documentation and potentially to interview transferees.

Age Determination - Assessment Process

- The opinion provided by the Director, UHM, Children and Age Determination Support Section NatO (in consultation with the AS, Community Support and Children Branch and the FAS, Community Programs and Children Division as appropriate) is definitive. Any additional claims/information arising in respect of a transferee whose age has been formally assessed must be referred to the Director, UHM, Children and Age Determination Support Section NatO.

Placement issues

- Where a transferee is assessed to be, on balance, more likely than not a minor, they will be transferred back to Australia, until such time as either PNG or Nauru can accommodate this cohort.

ATTACHMENT C – Age determination referral procedures and referral template

AGE DETERMINATION REFERRAL PROCEDURES

Referring persons for Age Determination

A number of suspected adult Illegal Maritime Arrivals (IMAs) are claiming to be minors, including after arrival or transfer to other Immigration Detention Facilities (IDFs). Claims such as this occur for many reasons but the primary and immediate concern for the Department is to ensure that these persons are accommodated appropriately.

Who needs an Age Determination assessment?

The Department conducts age determination assessments for:

- IMAs claiming to be minors or minors claiming to be adults where there is doubt as to their claimed adult or minor status; and
- Suspected Illegal Entry Vessel (SIEV) crew members claiming to be minors.

Referrals are accepted both from within DIBP and from external agencies that have contact with these persons and, are in a position to make a well informed judgement that the person's claimed status as a minor or an adult is questionable. Referral areas include but are not limited to:

- Detention Operations
- Entry Team
- Case Management
- SERCO
- Independent Observers
- IHMS
- Education providers

How do I refer a person for Age Determination?

To refer a person for age determination, the following steps should be followed:

1. After discussing the case with your EL1, complete an Age Determination Referral Form ([Attachment C](#)) noting your observations.
2. Email the completed referral form to the mailbox of the team responsible for the area in which the person is located (addresses below) for consideration. Ensure you use the following naming convention in the subject line "**AGE DETERMINATION REFERRAL – (Person BOAT ID) – (Person SURNAME, Given Name) – (Current Location)**". The receiving team will accept the referral or advise the referring office why it cannot be accepted. If accepted, the team will:
 - schedule the interview;
 - book the room;
 - book the interpreter;
 - arrange for an IO to be present; and
 - assess whether the person is a minor or an adult.

Age Determination - Assessment Process

IMA referrals should be sent to one of the following addresses:

Victoria, South Australia and Tasmania	Identity Team, Victoria
New South Wales, the ACT and Queensland	Identity Team, New South Wales
Western Australia	Identity Team, Western Australia
NT – coordination for NT facilities IDF	Age Determination Team, Northern Territory
Day-to-day management of age determination process, referrals and assessments for persons located on Christmas Island	Age Determination Team, Christmas Island
Policy and programme management, reporting briefings, quality assurance, case reviews and training	UHM, Children and Age Determination Support Section, Community Support and Children Branch, NatO

s 47E(d)

Age Determination - Assessment Process

Age Determination Referral Form

Person's Details	
Date of Referral:	
Name:	
Boat ID:	
DOB:	
Date of Arrival:	
Citizenship:	
Ethnicity:	
Language:	
Current Location:	

REASON FOR REFERRAL:	
<input type="checkbox"/> Physical Appearance <input type="checkbox"/> Behaviour/Demeanour <input type="checkbox"/> Documents	
<input type="checkbox"/> Contradictory Information <input type="checkbox"/> Information from another source <input type="checkbox"/> Other	
Details of referral: <i>e.g. the person looks much older than the other minors and does not mix with them. He interacts with mostly adults and behaves in a more mature manner than other minors.</i>	
Reasons, if any, for prioritisation. <i>E.g. person is the only Tamil speaker in the centre and has threatened self-harm.</i>	
Referral Details	
Date of Referral:	
Your Name:	
Agency:	
Contact Details:	
Phone:	
Email:	

ATTACHMENT D – Interview preambles and closing statements

AGE DETERMINATION PROCESS

Interview preamble and closing statement for IMAs

(Start recording equipment)

Person Name:

Boat ID:

The following is a record of interview held on _____ 20__. The interview is commencing at _____. It is being held at _____.

Present are _____ and _____ both officers of the Department of Immigration and Border Protection.

Also present is _____ (Independent Observer) of _____

This interview is conducted using interpreting services in the _____ language, Interpreter name _____ and identity number _____ (if applicable).

The interpreter is bound by a strict code of ethics to respect your right to privacy and confidentiality. The interpreter is only here to assist with the language; he/she does not have anything to do with this assessment. If you do not understand something that we say or have any difficulties with the interpreting, please let us know immediately. The interpreter will also let us know if he/she needs clarification.

Do you understand the interpreter?	YES	NO
Do you have any objection at this time to the interpreter?	YES	NO
Did you know the interpreter before coming to Australia?	YES	NO

(To the person being interviewed)

All information given by you during this interview will be treated as confidential. We are recording this interview to make sure the Department has an accurate record of the interview.

Do you have any objection to the interview being recorded?	YES	NO
--	-----	----

Note: Should a person object to the interview being recorded, it should be explained that it is for their and the department's benefit that this occur. For example, a recording would be of significant assistance in the event there is a need to review what was said at the interview, or if there is a challenge to the content of the written report or how the interview was conducted. Where the person continues to object to the recording, we cannot insist that this occur. In a case where it is considered the person does not have capacity to consent you should seek further advice from UHM, Children and Age Determination Support Section in NatO.

Age Determination - Assessment Process
FOR IMA PERSONS ARRIVING PRE 13 AUGUST 2012

Purpose of the interview

It is unclear whether you are under/over the age of 18 years. At the conclusion of this interview we will advise you of our assessment as to whether we believe you are a minor or adult for the purpose of accommodation placement and allocation of services.

If annual review cases, include below paragraph:

You have previously been interviewed by the Department regarding your status as a minor and were assessed as likely to be under 18 years of age at that time. Your date of birth was either recorded in accordance with what you provided or you were allocated a default date of birth that reflected your claimed age at the time. However, there is now concern you may no longer be under 18 years of age. A further assessment is therefore being conducted to determine if it is likely you remain under the age of 18.

The significance of being over 18 years of age in Australia is that 18 is the legally considered age of an adult.

This interview provides you with an opportunity to assist us in making this assessment. The interview report and assessments will be attached to your immigration file and may be accessed and considered by other officers who are managing you in Australia. To clarify, this interview is not about any claims you may make for Australia's protection however, the information you provide may be taken into consideration by other departmental officers in the future.

Please answer our questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official. My colleague and I are Commonwealth officials. Provision of false information will also raise doubts about the reliability of any other information you have given us.

We will give you the opportunity throughout the interview to respond to any concerns we might have regarding the information you provide. This includes information that we find is not clear or is contradictory to other responses you have provided or otherwise concerns us in relation to the claims you have made about your age. You are also encouraged to provide any documents that evidence your claimed age and scanned documents can be sent by email (*officers to provide persons with relevant address*).

You should be aware that if you are assessed as a minor, you will be placed in accommodation where there is a permanent carer, you will not be permitted to smoke and it is likely you will be required to attend school.

Information you provide at this and any future interview may be used or disclosed as the basis for checks with authorities in countries through which you have passed or in which you have resided since you left your country of origin.

The information may also be disclosed to Australian government agencies including those involved in security and law enforcement matters.

The information you provide may also be used to carry out checks with international humanitarian agencies concerning any contact you may have had with them.

Age Determination - Assessment Process

Do you understand everything that I have explained to you? YES NO

Note: At this stage, ask the person to explain in their own words the purpose of the interview.

Age Determination - Assessment Process

INTERVIEW CLOSING

Before we finish this interview, we ask you if you:

Have answered all our questions truthfully	YES	NO
Have not withheld information.	YES	NO

You now have an opportunity to tell us your correct age. Do you wish to do so?

YES NO (DOB or AGE) _____

We have considered the information you have provided both previously and during this interview and through documentation (where applicable) and formed the view that you are over/under 18 years of age (provide details of reasons to the person).

NOTE: In cases where the person is found to be a minor but their claimed age is in doubt, they should be advised that an annual review will take place, should they remain in detention at that time, to reassess if they remain under 18 years of age.

Is there anything else you would like to say? YES NO

This ends the interview. However, you may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us. You will receive written notification of the outcome of this interview as soon as possible. The notification letter will provide you with information on requesting a review of this outcome if you are subsequently able to provide any new information or documents.

Interview finish time: _____

Person signature [name and signature] _____

Independent Observer [name and signature] _____

Interpreter signature [name and signature] _____

Assessor 1 [name and signature] _____

Assessor 2 [name and signature] _____

Age Determination - Assessment Process

FOR IMA PERSONS WHO ARRIVED IN AUSTRALIA AFTER 12 AUGUST 2012 BUT BEFORE 19 JULY 2013.

Purpose of the interview

It is unclear whether you are under/over the age of 18 years. At the conclusion of this interview we will advise you of our assessment as to whether you are a minor or adult for the purpose of accommodation placement and allocation of services.

If annual review cases, include below paragraph:

You have previously been interviewed by the Department regarding your status as a minor and were assessed as likely to be under 18 years of age at that time. Your date of birth was either recorded in accordance with what you provided or you were allocated a default date of birth that reflected your claimed at the time. However, there is now concern you may no longer be under 18 years of age. A further assessment is therefore being conducted to determine if it is likely you remain under the age of 18. The significance of being over 18 years of age in Australia is that 18 is the legally considered age of an adult.

This interview provides you with an opportunity to assist us in making this assessment. The interview reports and assessments will be attached to your immigration file may be considered by other officers who are managing you in Australia.

Please answer our questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official. My colleague and I are Commonwealth officials. Provision of false information will also raise doubts about the reliability of any other information you have given us.

We will give you the opportunity throughout the interview to respond to any concerns we might have regarding the information you provide. This includes information that we find is not clear or is contradictory to other responses you have provided or otherwise concerns us in relation to the claims you have made about your age. You are also encouraged to provide any documents that evidence your claimed age.

You should be aware that if you are assessed as a minor, you will be placed in accommodation where there is a permanent carer, you will not be permitted to smoke and it is likely you will be required to attend school.

Persons who arrived on or after 13 August 2012 who are assessed as a minor are no longer able to sponsor their family to Australia under the split family component of the Humanitarian programme.

Information you provide at this and any future interview may be used or disclosed as the basis for checks with authorities in countries through which you have passed or in which you have resided since you left your country of origin.

The information may also be disclosed to Australian government agencies including those involved in security and law enforcement matters.

Age Determination - Assessment Process

The information you provide may also be used to carry out checks with international humanitarian agencies concerning any contact you may have had with them.

Do you understand?

YES

NO

Note: At this stage, ask the person to explain in their own words the purpose of the interview.

Age Determination - Assessment Process

INTERVIEW CLOSING

Before we finish this interview, I ask you if you have answered our questions truthfully and have not withheld information.

YES

NO

You now have an opportunity to tell us your correct age. Do you wish to do so?

YES

NO

(DOB or AGE)

We have considered the information you have provided both previously and during this interview and through documentation (where applicable) and formed the view that you are over/under 18 years of age (provide details of reasons to the person).

Note: In cases where the person is found to be a minor but their claimed age is in doubt, they should be advised that an annual review will take place, should they remain in detention at that time, to reassess if they remain under 18 years of age.

Is there anything else you would like to say?

YES

NO

You should be aware that subject to the Department's policies, you may be transferred to an offshore processing centre where your claims for Australia's protection will be considered.

This ends the interview. However, you may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us. You will receive written notification of the outcome of this interview as soon as possible. The notification letter will provide you with information on requesting a review of this outcome if you are subsequently able to provide any new information or documents.

Interview finish time: _____

Person [name and signature] _____

Independent Observer [name and signature] _____

Interpreter [name and signature] _____

Assessor 1 [name and signature] _____

Assessor 2 [name and signature] _____

Age Determination - Assessment Process

FOR IMA PERSONS WHO ARRIVED IN AUSTRALIA ON OR AFTER 19 JULY 2013

Purpose of the interview

It is unclear whether you are under/over the age of 18 years. At the conclusion of this interview we will advise you of our assessment as to whether you are a minor or adult for the purpose of accommodation placement and allocation of services.

If annual review cases, include below paragraph:

You have previously been interviewed by the Department regarding your status as a minor and were assessed as likely to be under 18 years of age at that time. Your date of birth was either recorded in accordance with what you provided or you were allocated a default date of birth that reflected your claimed age at the time. However, there is now concern you may no longer be under 18 years of age. A further assessment is therefore being conducted to determine if it is likely you remain under the age of 18.

The significance of being over 18 years of age in Australia is that 18 is the legally considered age of an adult.

This interview provides you with an opportunity to assist us in making this assessment. The interview reports and assessments will be attached to your immigration file and may be considered by other officers who are managing you in Australia.

Please answer our questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official. My colleague and I are Commonwealth officials. Provision of false information will also raise doubts about the reliability of any other information you have given us.

We will give you the opportunity throughout the interview to respond to any concerns we might have regarding the information you provide. This includes information that we find is not clear or is contradictory to other responses you have provided or otherwise concerns us in relation to the claims you have made about your age. You are also encouraged to provide any documents that evidence your claimed age.

Information you provide at this and any future interview may be used or disclosed as the basis for checks with authorities in countries through which you have passed or in which you have resided since you left your country of origin.

The information may also be disclosed to Australian government agencies including those involved in security and law enforcement matters. It may also be disclosed to other governments with which Australia has an offshore processing agreement.

The information you provide may also be used to carry out checks with international humanitarian agencies concerning any contact you may have had with them.

You should be aware that if you are assessed as a minor, you will be placed in accommodation where there is a permanent carer, you will not be permitted to smoke and it is likely you will be required to attend school.

Age Determination - Assessment Process

Do you understand?

YES

NO

Note: At this stage, ask the person to explain in their own words the purpose of the interview.

Age Determination - Assessment Process

INTERVIEW CLOSING

Before we finish this interview, I ask you if you have answered our questions truthfully and have not withheld information. YES NO

You now have an opportunity to tell us your correct age. Do you wish to do so?

YES NO (DOB or AGE) _____

We have considered the information you have provided both previously and during this interview and through documentation (where applicable) and formed the view that you are over/under 18 years of age (provide details of reasons to the person).

Note: In cases where the person is found to be a minor but their claimed age is in doubt, they should be advised that an annual review will take place, should they remain in detention at that time, to reassess if they remain under 18 years of age.

Is there anything else you would like to say? YES NO

You should be aware that subject to the Department's policies, you may be transferred to an offshore processing centre.

This ends the interview. However, you may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us. You will receive written notification of the outcome of this interview as soon as possible. The notification letter will provide you with information on requesting a review of this outcome if you are subsequently able to provide any new information or documents.

Interview finish time: _____

Person [name and signature] _____

Independent Observer [name and signature] _____

Interpreter [name and signature] _____

Assessor 1 [name and signature] _____

Assessor 2 [name and signature] _____

Age Determination - Assessment Process

AGE DETERMINATION PROCESS

Interview preamble and closing statement for SIEV CREW

Reminder: Ask crew to provide the name of the captain of the boat. This information is required for the AFP referral.

(Start recording equipment)

Person Name: _____

Boat ID: _____

The following is a record of interview held on _____ 20__.

The interview is commencing at _____. It is being held at _____.

Present are _____ and _____ both officers of the Department of Immigration and Border Protection.

Also present is _____ (Independent Observer) of _____

This interview is conducted using interpreting services in the _____ language of Translation and Interpreting Service interpreter name _____ and identity number _____ (if applicable).

The interpreter is bound by a strict code of ethics to respect your right to privacy and confidentiality. The interpreter is only here to assist with the language; he/she does not have anything to do with this assessment. If you do not understand something that we say or have any difficulties with the interpreting, please let us know immediately. The interpreter will also let us know if he/she needs clarification.

Do you understand the interpreter?	YES	NO
Do you have any objection at this time to the interpreter?	YES	NO
Did you know the interpreter before coming to Australia?	YES	NO

(To the person being interviewed)

All information given by you during this interview will be treated as confidential. We are recording this interview to make sure the Department has an accurate record.

Do you have any objection to the interview being recorded?	YES	NO
--	-----	----

Note: In cases where a person objects to the interview being recorded, it should be explained that it is for their and the Department's benefit this occur. For example, in the event there is a need to review what was said, or if the person later challenges the content of the written report. Where the person continues to object to the recording, we cannot insist that this occur. In case where it is considered that the person does not have capacity to consent you should seek further advice from the UHM, Children and Age Determination Support Section area in NatO.

Age Determination - Assessment Process

Purpose of the interview

It is unclear whether you are under/over the age of 18 years. At the conclusion of this interview we will advise you of our assessment as to whether we believe you are a minor or adult for the purpose of accommodation placement and allocation of services.

The significance of being over 18 years of age in Australia is that 18 is the legally considered age of an adult. If you are assessed as being 18 years of age or older you may be liable for prosecution for people smuggling offences. If you are assessed as a minor, you will be referred to the AFP for possible prosecution in limited circumstances.

This interview provides you with an opportunity to assist us in making this assessment. The interview reports and assessments will be attached to your immigration file and may be considered by other officers who are managing you in Australia. This includes the Australian Federal Police which has responsible for people smuggling matters.

Please answer our questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official. My colleague and I are Commonwealth officials. Provision of false information may also raise doubts about the reliability of any other information you have told us.

We will give you the opportunity throughout the interview to respond to any concerns we might have regarding the information you provide. This includes information that we find is not clear or is contradictory to other responses you have provided or otherwise concerns us in relation to the claims you have made about your age. You are also encouraged to provide any documents that prove your age.

Information you provide at this and any future interview may be disclosed to Australian government agencies including those involved in security and law enforcement matters.

Do you understand? YES NO

INTERVIEW CLOSING

Before we finish this interview, I ask you if you have answered our questions truthfully and have not withheld information.

YES NO

You now have an opportunity to tell us your correct age. Do you wish to do so?

YES NO (insert DOB or AGE)

We have considered the information you have provided both previously and during this interview and through documentation (where applicable) and formed the view that you are over/under 18 years of age (provide details of reasons to the person).

Is there anything else you would like to say? YES NO

This ends the interview. You may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us. You will receive written notification of the outcome of this interview as soon as possible. The notification letter will provide you with information

Age Determination - Assessment Process

on requesting a review of this outcome if you are subsequently able to provide any new information or documents.

Interview finish time: _____

Person [name and signature] _____

Independent Observer [name and signature] _____

Interpreter [name and signature] _____

Assessor 1 [name and signature] _____

Assessor 2 [name and signature] _____

ATTACHMENT E – Assessment Report



Australian Government

Department of Immigration and Border Protection

ASSESSMENT REPORT

Boat ID	
Person Name(include aliases)	
Date and Place of Interview	
Place of Birth	
Nationality	
Assessors names	
Interpreter's name and No.	
Independent Observer's name	
Available information	<input type="checkbox"/> Arrival Interview / Entry Interview <input type="checkbox"/> PTA / Bio data / Case Management Interview <input type="checkbox"/> s 47E(d) <input type="checkbox"/> Physical/Mental Health Assessment <input type="checkbox"/> Information regarding family members <input type="checkbox"/> s 47E(d) <input type="checkbox"/> ICSE Offspring <input type="checkbox"/> Other (specify)
Assessment Outcome	Minor / Adult (Delete whichever is not applicable)
Split Outcome	<input type="checkbox"/> Yes – DOB accorded: <input type="checkbox"/> No
Annual minor review	<input type="checkbox"/> Yes <input type="checkbox"/> No

Note: Please remove all red text before saving the assessment report.

Physical Appearance

s 47E(d)

Age Determination - Assessment Process

s 47E(d)

Conclusion

Assessment on Physical appearance – is the person under 18 years of age? (*Select one*)

Unlikely

Possible

Likely

**Not clear on this
criterion alone**

Behaviour and Demeanour

s 47E(d)

Conclusion

Assessment on Behaviour and Demeanour – is the person under 18 years of age? (*Select one*)

Unlikely

Possible

Likely

**Not clear on this
criterion alone**

Family History

s 47E(d)

Age Determination - Assessment Process

s 47E(d)

Conclusion

Assessment on Family History – is the person under 18 years of age? (*Select one*)

Unlikely

Possible

Likely

**Not clear on this
criterion alone**

Education/Employment

s 47E(d)

Conclusion

Assessment on Education – is the person under 18 years of age? (*circle one*)

Age Determination - Assessment Process

Unlikely

Possible

Likely

Not clear on this
criterion alone

history/Independence

s 47E(d)

Conclusion

Assessment on Social history/Independence – is the person under 18 years of age? *(Select one)*

Unlikely

Possible

Likely

Not clear on this
criterion alone

Identity documents

Record claims and observations about identity documents

Comments & considerations

- did the person have any identity documents in their property when they arrived at Christmas Island?*
- is the person able to provide originals or copies through relatives in their home country?*
- details of documents used to depart their country of origin and to enter and leave transit countries and route taken.*
- details of claimed process of obtaining identity documents.*
- did the person dispose of their documents en route to Australia? If so, what were the details recorded in the documents?*
- If the person claims not to have any identity documents and claims they are unable to obtain any – please note this.*

Conclusion

Assessment on identity documents – is the person under 18 years of age? (Select one)

Unlikely

Possible

Likely

**Not clear on this
criterion alone**

FINAL CONCLUSION

Write a brief summary of the conclusions drawn under each element indicating what weight was accorded to each:

For example: "Although the person physically presents as an adult and displayed the attributes, and social independence one would expect in a person over the age of 18, I give greater weight to the information and account provided by the person in relation to their family history, education and employment experience. I have therefore assessed this person to be a minor"

Note: In cases where a person is assessed as a minor, indicate how the DOB was accorded:

- *actual DOB as stated by person; or*
- *31/12 of their birth year according to their claimed age.*

Where a person is found to be over 18 years of age, indicate a DOB of 31/12 /of the year that makes them currently > 18, or

Where a person states they are over 18, indicate how the DOB was accorded:

- *actual DOB as stated by person; or*
- *31/12 of their birth year according to their claimed age.*

In cases of a **"split decision"** (one officer assesses the person as a minor and the other officer assesses them as an adult) the text below should be included.

While I have assessed it to be more likely than not that <<Master/Ms>> <<Surname>> is over the age of 18 years, as <<he/she>> has been assessed to be a minor by at least one age determination officer, <<he/she>> is therefore accorded a date of birth of <<DD month YYYY>> .

Administrative use:

☐ If found to be a minor - recommend referral for review of minor status in 12 months

☐ Recommended for referral for identity investigation

Reason for referral for identity investigation: *provide a short statement about identity concerns*

ATTACHMENT F – Email template regarding age determination assessment outcomes

FOR IMAs

To: Case Management; Detention Operations

Cc: [REDACTED] s 47E(d) Director UHM, Children and Age Determination Support Section
National Office, team responsible for age determination at that location,
[REDACTED] s 47E(d)

BOAT ID – SURNAME, Given name has been found to be <an adult> <a minor> through the Age Determination process and as such **may require <his><her> accommodation to be reviewed.** Case Management have been verbally notified of the Age Determination outcome.

DOB has been **changed** in ICSE and relevant systems (Client of interest notes & CCMDS) have been updated with the following text:

<copy of text included in ICSE client of interest note>

Please make changes to accommodation and services as required.

FOR SIEV CREW

To: Case Management; Detention Operations

Cc: [REDACTED] s 47E(d) Director UHM, Children and Age Determination Support Section
National Office; team responsible for age determination at that location.

The following email addresses must also be included as ‘To’ recipients:

CI:

[REDACTED] s 47E(d)

Other locations:

Age Determination - Assessment Process

s 47E(d)



BOAT ID – SURNAME, Given name has been found to be <an adult> <a minor> through the Age Determination process and as such **may require <his><her> accommodation to be reviewed.** Case Management have been verbally notified of the Age Determination outcome.

DOB has been **changed** in ICSE and relevant systems (Client of interest notes & CCMDS) have been updated with the following text:

<copy of text included in ICSE client of interest note>

Please make changes to accommodation and services as required.

ATTACHMENT G – Notification – adult – pre 19 July 2013 arrival



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are over 18 years of age. Accordingly, from **<XX Month 20XX>**, the Department will no longer treat you as a minor for the purposes of accommodation placement, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you in Australia.

In addition, the information you provided at this and any future interview may be used or disclosed as the basis for checks with authorities in countries that you may have passed, or in which you have resided since you left your country of origin. The information may also be disclosed to Australian Government agencies including those involved in security and law enforcement matters.

Yours sincerely

<Name>

<Position Title>

<Location>

<Date>

Note: This letter should be prepared on local letterhead

ATTACHMENT H – Notification – adult – arrival on or after 19 July 2013



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are over 18 years of age. Accordingly, from **<XX Month 20XX>**, the Department will no longer treat you as a minor for the purposes of accommodation placement, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you whilst you remain in Australia.

In addition, the information you provided at this and any future interview may be used or disclosed as the basis for checks with authorities in countries that you may have passed, or in which you have resided since you left your country of origin. The information may also be disclosed to Australian Government agencies including those involved in security and law enforcement matters and to other governments with which Australia has an offshore processing agreement.

Yours sincerely

<Name>

<Position Title>

<Location>

<Date>

Note: This letter should be prepared on local letterhead

ATTACHMENT I – Notification – adult crew



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are over 18 years of age. Accordingly, from **<XX Month 20XX>**, the Department will no longer treat you as a minor for the purposes of accommodation placement, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you in Australia.

In addition, the information you provided at this and any future interview may be disclosed to Australian Government agencies including those involved in security and law enforcement matters.

Yours sincerely

<Name>

<Position Title>

<Location>

<Date>

Note: This letter should be prepared on local letterhead

ATTACHMENT J – Notification – minor arrived pre 19 July 2013



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are under 18 years of age. Accordingly, you will be treated as a minor for the purposes of accommodation placements, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

Insert the following paragraph where doubts exist regarding a person's claimed age:

Although you have been assessed as less than 18 years of age, doubts are held regarding your claimed age. Therefore, a review will be conducted in 12 months to re-assess whether the Department continues to accept you are less than 18 years of age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you in Australia.

In addition, information you provided at this and any future interview may be used or disclosed as the basis for checks with authorities in countries that you may have passed, or in which you have resided since you left your country of origin. The information may also be disclosed to Australian Government agencies including those involved in security and law enforcement matters.

Yours sincerely

<Name>

Position Title

<Location>

<Date>

ATTACHMENT K – Notification – annual minor review



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Name:

Boat ID:

Annual Review of Age Determination Assessment

Dear

On DD/MM/YYYY you were interviewed by officers of the Department of Immigration and Border Protection (the Department) regarding a claim that you are a minor (ie. less than 18 years of age).

Based on your responses at that interview and from other information available to the Department, you were determined to be a minor. However, there was some doubt during that process regarding your stated age.

As twelve months has passed since that first assessment, the Department has undertaken a fresh consideration of claims you are a minor and you were interviewed for this purpose on DD/MM/YYYY.

During that consideration, it has been determined that the original assessment you are a minor remains unchanged.

or

As a result of that fresh consideration, you have been assessed as over 18 years of age. Accordingly, the Department will now treat you as an adult for the purpose of accommodation placement and the provision of relevant services.

The Department's records have been adjusted to reflect your date of birth as XX/XX/YYYY.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

Yours sincerely

<NAME>

<WORK LOCATION>

<DATE>

ATTACHMENT L – Notification – minor – arrived on or after 19 July 2013



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are under 18 years of age. Accordingly, you will be treated as a minor for the purposes of accommodation placements, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

Insert the following paragraph where doubts exist regarding a person's claimed age:

Although you have been assessed as less than 18 years of age, doubts are held regarding your claimed age. Therefore, a review will be conducted in 12 months to re-assess whether the Department continues to accept you are less than 18 years of age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you whilst you remain in Australia.

In addition, information you provided at this and any future interview may be used or disclosed as the basis for checks with authorities in countries that you may have passed, or in which you have resided since you left your country of origin. The information may also be disclosed to Australian Government agencies including those involved in security and law enforcement matters and to other governments with which Australia has an offshore processing agreement.

Yours sincerely

<Name>

Position Title

<Location>

ATTACHMENT M – Notification – minor crew



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name: <Person Name>

Boat ID: < Boat ID >

Dear <Person title><Person surname>

Age Determination Assessment

On **XX Month 20XX** you were interviewed by officers of the Department of Immigration and Border Protection (the Department) to determine whether you are a minor or an adult.

Based on your responses at interview and other information available, the Department has reached a view that you are under 18 years of age. Accordingly, you will be treated as a minor for the purposes of accommodation placements, guardianship and other services.

In light of this assessment, the Department will record your date of birth as 31/12/**YYYY**.

There is no formal review process for this assessment. However, as discussed with you at interview, the Department will reconsider this assessment if you can provide credible evidence (documentary or otherwise) that supports any claim you may have regarding your age.

Insert the following paragraph where doubts exist regarding a person's claimed age:

Although you have been assessed as less than 18 years of age, doubts are held regarding your claimed age. Therefore, if you are still in Australia in 12 months' time a review will be conducted to re-assess whether the Department continues to accept you are less than 18 years of age.

A copy of this letter will be placed on your departmental file. As advised at interview, this information may be used by other departmental officers who are managing you in Australia.

In addition, the information you provided at this and any future interview may be disclosed to Australian Government agencies including those involved in security and law enforcement matters.

Yours sincerely

<Name>

Position Title

<Location>

<Date>

Note: This letter should be prepared on local letterhead

ATTACHMENT N – Review process, referral template and interview preamble



Australian Government

Department of Immigration and Border Protection

AGE DETERMINATION REVIEW PROCESS

Review requests can be made both from within the Department and from external agencies that have contact with persons and are in a position to make a well informed judgement that the earlier assessment regarding the person's age is questionable.

Officers seeking the review of an age determination outcome should do the following:

s 47E(d)

- In cases where the review is based on the provision of documents, please note photocopies and scanned versions will be given little weight. Documents should be referred to the relevant Document Examination Unit (DEU) responsible for the place where the person is located for assessment prior to submitting a request for reviews. Once the results are received, the review should be sent to the relevant EL1 officer responsible for the area where the person is located. NB: for CI cases the relevant EL 1 is the Age Determination Manager.

s 33(a)(iii)

- The EL1 officer is required to evaluate the review request before forwarding to the Director, UHM, Children and Age Determination Support Section in National Office for consideration.

Contacts

For QLD,

ACT and NSW:

For VIC, TAS and SA:

For NT :

For WA:

For Christmas Island:

For OPCs:

s 47E(d)

Please ensure that the following naming convention is used in the subject line:

Age Determination - Assessment Process

“AGE DETERMINATION REVIEW REQUEST – (Person BOAT ID) – (Person SURNAME, Given Name) – (Current Location)”.

Age Determination Review Request

Details	
Date of request:	
Person Name:	
Boat ID:	
DOB:	
Current location:	
Requesting officer (full name):	
Section/or organisation:	
Email address:	
Telephone number:	
Date of original assessment:	

Reason for Age Determination Review Request	
<input type="checkbox"/> New documents available	<input type="checkbox"/> New information available
<input type="checkbox"/> Person demonstrating adult/minor behaviour	<input type="checkbox"/> Other
Details of review request:	

Note: Please ensure primary assessment report TRIM references accompany this request.

Age Determination - Assessment Process

AGE DETERMINATION REVIEW

Interview preamble and closing statement for IMAs

(Start recording equipment)

Person Name: _____

Boat ID: _____

The following is a record of interview held on _____ 20____. The interview is commencing at _____. It is being held at _____.

Present are _____ and _____ both officers of the Department of Immigration and Border Protection.

Also present is _____ (Independent Observer) of _____

This interview is conducted using interpreting services in the _____ language, Interpreter name _____ and identity number _____ (if applicable).

The interpreter is bound by a strict code of ethics to respect your right to privacy and confidentiality. The interpreter is only here to assist with the language; he/she does not have anything to do with this assessment. If you do not understand something that we say or have any difficulties with the interpreting, please let us know immediately. The interpreter will also let us know if he/she needs clarification.

Do you understand the interpreter?	YES	NO
Do you have any objection at this time to the interpreter?	YES	NO
Did you know the interpreter before coming to Australia?	YES	NO

(To the person being interviewed)

All information given by you during this interview will be treated as confidential. We are recording this interview to make sure the Department has an accurate record of the interview.

Do you have any objection to the interview being recorded?	YES	NO
--	-----	----

Note: Should a person object to the interview being recorded, it should be explained that it is for their and the department's benefit that this occur. For example, a recording would be of significant assistance in the event there is a need to review what was said at the interview, or if there is a challenge to the content of the written report or how the interview was conducted. Where the person continues to object to the recording, we cannot insist that this occur. In a case where it is considered the person does not have capacity to consent you should seek further advice from the UHM, Children and Age Determination Support Section in NatO.

Age Determination - Assessment Process

Purpose of the interview

This interview is being conducted in relation to a review request that has been lodged regarding the former assessment that found you to be a **minor/adult**. It is currently unclear whether you are **under/over** the age of 18 years.

The significance of being over 18 years of age in Australia is that 18 is the legally considered age of an adult.

The purpose of the interview is to provide you with an opportunity to assist us in this review. The interview reports and assessments will be attached to your immigration file and may be considered by other officers who are managing you in Australia.

Please answer our questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official. My colleague and I are Commonwealth officials. Providing false information will also raise doubts about the reliability of any other information you have given us and bring your credibility into question.

You will be provided an opportunity throughout the interview to respond to any concerns we might have regarding the information you provide. This includes information that we find is not clear or is contradictory to other information you have provided or otherwise concerns us in relation to the claims you have made about your age. You are also encouraged to provide any documents that evidence your claimed age.

Information you provide at this and any future interview may be used or disclosed as the basis for checks with authorities in countries through which you have passed or in which you have resided since you left your country of origin.

The information may also be disclosed to Australian government agencies including those involved in security and law enforcement matters. It may also be disclosed to other governments with which Australia has an offshore processing agreement.

The information you provide may also be used to carry out checks with international humanitarian agencies concerning any contact you may have had with them.

Do you understand?

YES

NO

Note: At this stage, ask the person to explain in their own words the purpose of the interview.

Age Determination - Assessment Process

INTERVIEW CLOSING

Before we finish this interview, I ask you if you have answered our questions truthfully and have not withheld information.

YES

NO

You now have an opportunity to tell us your correct age. Do you wish to do so?

YES

NO

(DOB or AGE)

An assessment report will now be provided for the Director, UHM, Children and Age Determination Support Section in Canberra to consideration as part of the review. You will be advised of the outcome as soon as possible.

Is there anything else you would like to say?

YES

NO

This ends the interview. However, you may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us.

Interview finish time: _____

Person [name and signature] _____

Independent Observer [name and signature] _____

Interpreter [name and signature] _____

Assessor 1 [name and signature] _____

Assessor 2 [name and signature] _____

ATTACHMENT O – Review outcome notifications



Australian Government

Department of Immigration and Border Protection

In reply, please quote:

Person Name:

Boat ID:

Review of Assessment of Age Determination

Dear (Person name)

On DD Month YYYY you were interviewed by officers of the Department of Immigration and Border Protection (the Department) regarding a claim that you are under/over 18 years of age.

Based on your responses at that interview and from other information available to the Department, it was determined that you are under/over 18 years of age.

Following a recent request to reconsider this outcome, enquiries have been conducted and a review has been undertaken.

(Delete whatever is not applicable)

The result of that independent review is that the earlier assessment made indicating you are a minor/adult remains unchanged and your date of birth will continue to be shown in departmental records as DD/MM/YYYY.

or

The result of the independent review is that you have now been assessed as under/over 18 years of age. Accordingly, the Department will now treat you as a minor/adult for the purposes of accommodation placement and other services.

The Department has adjusted your records to reflect a date of birth as 31/12/YYYY.

Yours sincerely

Director
UHM, Children and Age Determination Support Section
Community Support and Children Branch
Canberra

ATTACHMENT P – Daily report template

DAILY EMAIL REPORT

Each day, an email report is to be sent regarding age determination interviews that have been undertaken at your location and/or where a contentious case and/or issue in relation to age determination occurs. The email format is as follows:

Email to be addressed to: Name of current Director, UHM, Children and Age Determination Support Section, NatO,
s 47E(d)

(NB – the email can be cc'd to local managers and centre management as required.)

Subject: Daily Report - Age Determination Interviews - Day, DD/MM/YYYY – DIBP Office

Body of email:

Referrals

Arrived prior to 19 July 2013 (delete if not applicable)

XX persons were referred for age determination today.

Arrived on or after 19 July 2013 (delete if not applicable)

XX persons were referred for age determination today.

Arrived after 7 September 2013

XX persons were referred for age determination today.

Interviews

Those determined to be a **MINOR**:

<u>Boat Id</u>	<u>Surname, Given name</u>	<u>Crew (Y/N)</u>	<u>Person Location</u>	<u>Arrival details</u>
1.			(e.g. CD, APOD)	(e.g. Post 19 July 2013, Post 7
2.	September 2013)			

Those determined to be an **ADULT**:

<u>Boat Id</u>	<u>Surname, Given name</u>	<u>Crew (Y/N)</u>	<u>Person Location</u>	<u>Arrival details</u>
1.			(e.g. CD, APOD)	(e.g. Post 19 July 2013, post 7
2.	September 2013)			

s 47E(d)

<u>Boat Id</u>	<u>Surname, Given name</u>	<u>Crew (Y/N)</u>	<u>Person Location</u>	<u>Arrival details</u>
1.			(e.g. CD, APOD)	(e.g. Post 19 July 2013, post 7
2.	September 2013)			

Cases on hand awaiting interview

Arrived prior to 19 July 2013 (delete if not applicable)

Age Determination - Assessment Process

XX IMAs and **XX** crew

Arrived on or after 19 July 2013 (delete if not applicable)

XX IMAs and **XX** crew

Arrived after 7 September 2013

XX IMAs and **XX** crew

RE-INTERVIEWED DUE TO REVIEW REQUEST- Details to be referred to Director, UHM, Children and Age Determination Support Section, NatO who will make the final outcome and notify relevant stakeholders accordingly.

<u>Boat ID</u>	<u>Surname, Given name</u>	<u>Crew (Y/N)</u>	<u>Person Location</u>	<u>Arrival details</u>
1. September 2013)			(e.g. CD, APOD)	(e.g. Post 19 July 2013, post 7
2.				

Significant issues

(Provide details of any contentious cases or issues in relation to age determination process/cases e.g. Centre Manager interest, Ombudsman interest, FOI or IAAAS interventions, media interest).

AGE DETERMINATION PILOT PROJECT JUNE - OCTOBER 2010

DRAFT REPORT - APRIL 2011

PREPARED BY

THE PRINCIPAL ADVISOR'S UNIT,

CITIZENSHIP, SETTLEMENT AND

MULTICULTURAL AFFAIRS DIVISION,

DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

CONTENTS

1. Executive Summary	3
2. Recommendations	5
3. Background	6
a. Dimension of the problem	7
b. International approaches	7
4. Pilot to Assess Age of Disputed Minors	9
a. General Approach	9
b. Preparation	10
c. Interview	10
d. Assessment	11
d. Stakeholder Engagement	11
5. Discussion and Analysis of Pilot	13
a. Summary outcomes	13
b. Preparation	13
c. Interview	14
d. Assessment	15
e. Stakeholder engagement on CI	16
f. Post assessment	16
6. Recommendations for BAU Model	17
a. Suggested Principles	17
b. Recommendations	18
7. Appendices	21

1. EXECUTIVE SUMMARY

There has been recent public comment, as well as long-standing concerns, that irregular maritime arrivals (IMAs) who claim to be adults on arrival subsequently claim to be minors when they seek to propose their family.

The Department of Immigration and Citizenship has been giving the benefit of the doubt to people who claimed to be minors where no evidence was available to the contrary, in particular, to address the risk of detaining a minor in a detention centre.

Over time however, more people have been claiming to be minors and case managers have begun to challenge claims in a limited way. There is feedback now available from settlement providers onshore that indicates quite a number of them may not in fact be under the age of 18.

The questions of the means by which to determine whether or not a person is over 18 for the purposes of protection obligations determinations is relatively controversial, particularly when it comes to physical evidence such as bone scans and dental examinations.

The Principal Advisor's Unit, Citizenship, Settlement, Multicultural Affairs, (PAU, CSM), in consultation with the Council for Immigration Services and Status Resolution (CISSR), and with the endorsement of the Minister for Immigration and Citizenship, undertook to pilot an interviewing approach to assess the credibility of a person's claim to be a minor.

A small, experienced interviewing team conducted interviews with 60 clients on Christmas Island to assess whether they were over or under the age of 18 (69 were originally identified). The purpose of the interviews was not to dispute at the margins but to make an assessment, where it was clear to the interviewing officer, that the client was well over 18 years of age.

The pilot tested the method of focussed interviewing, through several areas of enquiry including, but not limited to, family history, education and social history/independence.

The interviews were conducted in two phases – the first phase was over two weeks, from June to July 2010 with 32 identified clients; while the second phase was from July to August 2010 with 37 identified clients.

For the purposes of the pilot, clients were selected on the basis of having initially presented to the Department as adults but subsequently advised that they were under the age of 18.

Throughout the pilot process, clients were encouraged and supported to obtain proof of their age and given reasonable opportunity to contest any findings by the department in relation to their age. Even after an assessment was made, clients were advised they could provide further documentation.

Independent observers (*Life without Barriers*) were present during the interviews and Immigration Advice and Application Assistance Scheme

(IAAAS) agents were informed of the pilot process before it began. Some agents were present (in person or by telephone) during the interview. Copies of the assessment made by the department as to whether they were over or under the age of 18 were also provided to the client's IAAAS agent.

Consultations were also undertaken with relevant internal and external stakeholders prior to and during the pilot process. Besides CISSR, the Ombudsman's Office and the Australian Human Rights Commission (AHRC) were contacted for their feedback in the development of the pilot project and were supportive of the need for this work to be undertaken. The department's health services provider was also involved in the pilot.

The department undertook the age determination pilot as a means to test the interviewing style and questions, and to form the basis for a future approach to these cases. Such interviews and determinations will not give the department the actual age of the person, unless they volunteer that information themselves. While the department would be able to make decisions about their status as a minor, it is unlikely to establish an age or date of birth.

The pilot was, overall, considered successful. Departmental staff and stakeholders largely welcomed the pilot's activities and are seeking future guidance and support to test the veracity of a client's claim to be a minor. The pilot provided some valuable feedback on the process in which the department conducts age determination assessments. It identified gaps and confirmed the need for a more rigorous age determination process.

This draft report provides some background to the international experiences of age determination processes; details of the age determination pilot approach; and a discussion of the pilot's outcomes. This report suggests some principles for age determination and provides recommendations for the way forward; however its primary focus is to provide detailed background for a wider departmental audience to participate in an internal *Age Determination Workshop* on 19 April 2011 to determine a way forward. Overall ownership of the department's age determination policy and procedures will be discussed at this workshop¹.

¹ Whilst the age determination pilot has been managed to date by the Principal Advisor's Unit, Citizenship, Settlement and Multicultural Affairs, there has been a delay in finalising the business as usual process given this unit's role in delivery the expanded community detention program (from October 2010). It was always the intention that the business as usual model process and policies supporting this process would sit with another, more appropriate, area of the department.

2. RECOMMENDATIONS

Draft recommendations arising from the pilot that the department should consider progressing this matter further are that:

- The department will introduce a business as usual age determination process.
- Until such time as a business as usual model is adopted, a further taskforce be allocated to work through the backlog of IMA clients who have changed their date of birth and/or DIAC officers have raised concerns about those clients who present as under age of 18.
- That a specialist integrity/identity officer (based on Christmas Island in the first instance, followed by other detention facilities) be responsible for undertaking age determination interviews with clients who have been referred by other departmental officers and/or service providers.
- That the specialist officer be assisted by another experienced interviewer (possibly a case manager?) in interviewing clients regarding their age.
- The gender of the interview teams are culturally appropriate to the clients.
- That the 'age determination' be made by the specialist integrity/identity officer after collecting any relevant evidence including prior to, and during the interview; the opinion of the interviewer assisting; medical/other specialist opinion (if necessary); and client documents etc.
- If further credible information comes to light after an age determination has been made, the issue can be re-opened for assessment. Until such time as the further information is considered, a client will remain in their current accommodation (this is the general position but will depend on the nature of the further information).
- If a client initially presents as an adult but wishes to change their date of birth, which would then see them treated as a minor, that the client remain in their current accommodation until an assessment is undertaken, and or the information is considered.
- Undertake an education campaign within the immigration detention network to advise minors and would-be minors of the long-term implications of deciding to present as a certain age, with a particular focus of education on-arrival.
- Finalise and formalise the default date of birth (31/12) within the department.
- Develop and provide business process and systems support that supports age determination so a client's 'age' history/assessment is clear to departmental officers (i.e. default, claimed DOB, changes identified are obvious) and unable to be overridden without specific approval.

3. BACKGROUND

Dimension of the problem

Determining the age of a person who claims to be a minor in the absence of documentation or any other objective evidence is difficult and relatively controversial. There is quite a debate across asylum seeker receiving countries around the world about the most appropriate and reliable means to do so.

The age of a client (and disputes about age) have an immediate and a long term impact, both on immigration programs, policies and risks, and on the life of the individual concerned.

As the Australian Government's policy is that minors should not be detained in a detention centre, the department has accepted a client's assertions that they are under 18 years of age. Over time however, more people have been claiming to be minors and case managers have begun to challenge some of these claims in a limited way.

A *Working Group on Age Determination* was established in the department to work on these issues as the implications are far-reaching and involve several divisions. At its first meeting on 13 May 2010, the Working Group discussed a range of issues which illustrate the challenges:

Protocol to guide decision makers on refusing to accept an applicant's claim to be a minor

There was strong endorsement of the need for a protocol to guide decision makers on refusing to accept an applicant's claim to be a minor where the evidence to the contrary was sufficiently compelling.

The group also felt that an education campaign was needed on Christmas Island to advise minors and would-be minors of the long-term implications of deciding to present as a certain age, including drivers' licenses, taxation, income support, fraud and citizenship applications etc.

Default Date

There has been debate about what default date ought to be used where only a year of birth or an age in years is known. Currently, different parts of the department are using either 1 January or 31 December. There are implications of the default date chosen for the department's systems/data and partner agencies accessing the data and also for identity matching.

In December 2010, the *Age Determination Working Group* further deliberated on the different approaches used across the department and agreed all areas of the department will, from now on, use 31/12/the year of birth declared by the client or if an age is declared then 31/12/year that makes them that age.

The meeting agreed the new default date of birth will require endorsement by the Executive Committee and updating on PAM 3 and all other relevant internal procedures manuals. This default date should be consistently used for onshore and offshore clients alike. The Executive's endorsement will be

sought by the PAU, CSM and the Risk, Fraud and Integrity (RFI) divisions as part of Age Determination business as usual approval process.

Settlement implications

The implications for settlement providers of significant numbers of young people claiming to be minors who are not and the challenges relating to schooling, fostering, guardianship and so on are obvious. The feedback from providers is growing increasingly negative on this score. The Queensland service provider working with visaed minors estimates that 50-70% of them are over 18 and a good proportion are significantly over that age.

Impact on the Offshore Humanitarian Program

The implications for the offshore humanitarian program are equally significant. Applications from minors are afforded priority processing when they seek to sponsor their parents and dependents under split family provisions. The advantages of being determined a minor in relation to split family processing constitute a significant motivation to give it a go – without anything much to lose.

Split family applicants are not required to meet refugee criteria but are counted against the offshore humanitarian program. Applications from minors are not the majority of onshore protection visa grants, but nonetheless, the concession should only be available to those who are truly minors.

International approaches

It has not been Australian immigration practice to rely on bone scans, although in the past these have occasionally been undertaken. It should also be noted that the proscribed process under the *Crimes Act 1914* to determine age is a wrist x-ray and is used by the Australian Federal Police (AFP) for, amongst other things, assessing the age of detained minor crew.

The 'Greulich-Pyle Atlas' standard of assessing age by looking at changes in the growth areas of the bones and the hand and wrist on x-ray was developed based on studies of North American children in the 1940s and remains the standard guide. There is debate however, as to whether this standard is applicable to caseloads such as immigration.

There are at least a couple of cases where age determination on the basis of bone scans has been disputed in Australia. Please see notes from Federal Magistrate's Court and the Refugee Review Tribunal (RRT) at Attachment A.

The RRT case notes the following: "The medical evidence presented in the form of the report from the Royal Children's Hospital notes the unreliability of using skeletal age to determine chronological age..." In both cases the authorities found in favour of the applicant and gave benefit of the doubt that the applicant was under 18 years of age.

In terms of the UK practice and experience around this issue, there is a very useful and quite definitive document which the UK government relies on to inform its policy - The Health of Refugee Children: Guidelines for

Paediatricians - published by the Royal College of Paediatrics and Child Health (Attachment B).

It makes the following statement regarding age determination:

"In practice, age determination is extremely difficult to do with certainty, and no single approach to this can be relied on. Moreover, for young people aged 15-18, it is even less possible to be certain about age. There may also be difficulties in determining whether a young person who might be as old as 23 could, in fact, be under the age of 18. Age determination is an inexact science and the margin of error can sometimes be as much as 5 years either side."

"The issue of whether chronological age can be determined from the estimate of bone age has been discussed at great length in the literature. The answer is that it cannot."²

The main reason for this is that bone scans give an indication of physical maturity but this does not correlate consistently to a particular age with any accuracy.

Practice across various European countries varies in relation to the use of bone scans and other physical investigations (such as dental examinations) but it is fair to say that those who do sometimes use bone scans do not rely on them exclusively and that social and cultural factors are very important in this assessment. Most countries place greater emphasis and credibility on the use of careful interviewing and other socio-cultural information to draw their conclusions relating to age.

Please see Attachment C for a summary of international practice.

² The Health of Refugee Children: Guidelines for Paediatricians, Royal College of Paediatrics and Child Health, p. 13

4. PILOT TO ASSESS AGE OF DISPUTED MINORS

a. General Approach

The department consulted with the Ombudsman's Office, the Australian Human Rights Commission (AHRC) and the Council for Immigration Services and Status Resolution (CISSR) on strategies for making age determinations where a client has no supporting documentary evidence. CISSR was of the view that methods such as wrist x-rays and dental examinations are unreliable and they support the interviewing approach.

The Principal Advisor's Unit, Citizenship, Settlement and Multicultural Affairs Division (PAU, CSM) submitted a proposal to the Minister for Immigration and Citizenship for his endorsement to pilot an interviewing approach to assessing the credibility of a person's claim to be a minor.

The age determination pilot was undertaken in two phases with a group of 69 identified disputed minors on Christmas Island (CI): the first phase was over two weeks, from 23 June to 5 July 2010 with 32 identified clients; while the second phase was from 22 July to 31 August 2010 with 37 identified clients.

A small, experienced interviewing team³ conducted the interviews to assess whether these individuals were over or under 18.

The PAU, CSM decided, after consulting with CISSR, Commonwealth Ombudsman and the AHRC, the following approach would be undertaken in the pilot:

- The client was interviewed by two experienced DIAC officers, after which an assessment of the client's age is done individually by each of these officers.
- Where both of the interviewing officers form the view that the person is over 18 (i.e. the claim to be a minor is not credible), they then seek the view of the department's medical health service provider, as to whether they agree with this view.
- If these three sources agree that the balance of probability is that the person is not a minor (i.e. is over 18 years of age), this will establish the department's position on the case.
- if the health services provider does not endorse the view of the interviewing officers then the department will continue to treat the person as a minor;
- it was not suggested the department dispute at the margins and it would still be prudent to apply a reasonable benefit of the doubt, but in cases of pretty evident "trying it on" the taskforce was encouraged to be firm. While this approach was carefully applied and risks mitigated, it was noted there remains a possibility that mistakes may occur resulting in the detaining of a minor as an adult;
- it was always be open to the person to provide proof of their age and they will be encouraged and supported to obtain proof of age from their home

³ DIAC officers Todd Jacob, Meredith Byron and Bianca Gould.

countries. They were also given reasonable opportunity to contest the department's findings in relation to age with evidence.

This process was not about determining a person's chronological age, but forming a view that the person is more likely to be over or under 18 by taking a range of factors into account.

b. Preparation

Interviewers had access to, and considered, other documentation before conducting these interviews e.g. record of entry interview, any identity documents and/or records of discussions with departmental staff in relation to their change of date of birth claims.

Case managers advised the client group in advance of the team's arrival that they will be interviewed to consider their claims to be minors.

Cohort

For the purposes of the pilot, clients were selected on the basis of having initially presented to the department as adults but subsequently advised the department that they are under the age of 18. Within this group, a sub-group of 16 clients were interviewed first on the basis of having been referred by their case managers with concerns regarding their claimed age.

c. Interview

Consistent with current departmental practice, independent observers (i.e. staff from *Life without Barriers*, the service provider contracted by the department to provide support programs for unaccompanied young asylum seekers) were present during the interviews.

Clients were advised at the commencement of the interview that the department's independent application assistance and immigration advice service provider - IAAAS agents - had been informed on the interview process and purpose. They were also told that their agent would be provided a copy of an assessment made by the department as to whether they are over or under the age of 18.

The interview technique used in the pilot entailed asking a series of questions, not necessarily one after the other but interspersed, which go to chronology around schooling, ages of siblings, birth dates, when certain events occurred and so on. Any chronological inconsistencies which emerged were put to the client. It was assumed inconsistencies almost inevitably would emerge in non-genuine cases and experience suggests that once a story starts to come apart, many interviewees, when it is put to them that their story is not credible, will abandon the effort.

The first phase of the interview consisted of three experienced departmental officers (but as noted, two at per interview) who took on average 45 minutes with some interviews and up to 1 hour 15 minutes with others. Some clients were interviewed twice.

In the second phase, two of the original interviewing officers returned to Christmas Island to interview the remaining clients who originally presented as adults but subsequently identified as minors. Also with feedback from CISSR on the initial interview phase, the interview scripts were amended to reiterate the point that the interviews around the client's age claims were just that and not the client's RSA interview.

Please see Attachment D for scripts and guidelines.

d. Assessment

A process for handing down the assessments was developed (Attachment E). The process included a pro forma e-mail to send to IAAAS agents 24 hours prior to the hand down (along with relevant documents), the need for a case conference for relevant stakeholders for 'over 18' assessments and ensuring that departmental systems were updated directly following the handing down of an assessment.

Clients were encouraged and supported to obtain proof of their age and were given reasonable opportunity to contest any findings made by the department in relation to their age.

e. Stakeholder engagement

The department continued to engage with internal and external stakeholders regarding the project and the need for the department to have a clear process around testing age claims throughout the pilot process.

The Ombudsman's Office and the Australian Human Rights Commission were provided with the draft guidelines and associated documents guiding the pilot. To date, PAU, CSM has not received any formal comments from either body on the documents. Nonetheless, informal feedback indicates support for the pilot and recognition of the need to undertake some testing around age claims. Generally, there has also been a positive response to the interviewing approach over bone density/dental scan determination methods.

All IAAAS agents were advised about the interview process and its purpose and were encouraged to provide feedback. To date, only one IAAAS provider made representations to the department about their clients and requested their presence at the interviews. This was immediately facilitated (the IAAAS agent participated in the interviews by telephone). Another happened to be on CI at the time and participated in person.

The department also presented on the pilot process to various groups and bodies:

- the Onshore Protection Consultative Group (OPCG);
- the Australian Cultural Orientation Program (AUSCO) consultative committee; and
- at a workshop for IAAAS agents.

Other internal stakeholders consulted were:

- Border Security, Refugee and International Policy Division;

- Community and Detention Services Division;
- Compliance and Case Resolution Division;
- Risk, Fraud and Integrity Division;
- Citizenship, Settlement and Multicultural Affairs Division;
- s. 22(1)(a)(ii) Special Counsel, AGS.

5. DISCUSSION & ANALYSIS OF PILOT

a. Summary outcomes

Of the 69 clients identified to participate in the pilot, the following outcomes were noted:

- 2 clients voluntarily reverted to their original date of birth (DOB);
- 9 clients, whilst identified in the pilot group as clients who originally presented as adults and subsequently changed their DOBs, were not interviewed by our officers due to time constraints.
- 33 clients were found to be over 18;
- we will continue to treat 23 clients as minors; and
- 2 clients' cases have otherwise been resolved.

The general impression from the interviewing team was that the vast majority of these clients are well over 18 years of age. Whilst the department had anticipated that, in the face of focussed interviewing on the issue, some of these clients may have made admissions that they are, in fact, adults, none did so.

[We note, however, that a client not interviewed came forward, prior to the interview and advised the department that he had provided incorrect information to the department (including his claimed age of 17) and that he is, in fact, 32 years of age.]

A few clients (less than 5) have been actively resistant to the process but most have been accepting of the process itself.

b. Preparation

Whilst gathering all relevant information assisted the taskforce to determine any inconsistencies and lines of questioning, there was limited documentation available before interviews. For example, the quality of biodata was often poor and limited in detail; data was sometimes translated incorrectly; and sometimes notes were made about identity documents clients claimed they had however appeared that obtaining these documents had not been followed up.

Bio data seemed to be collected without testing the veracity of the information. There was also limited information recorded about the conversations with case officers when the client changed their date of birth which meant that clients could simply say they could not remember what they had said.

s. 47E(d)

There were limited opportunities for observation but it did assist where possible. The country information was useful to provide reference points

during the interview. Furthermore, discussions with case managers provided good background information on unaccompanied minors.

The taskforce benefited from the use of an administration assistant, and would recommend that future taskforces take laptops with G-RAS for CI. Interview training may also need to be provided to future taskforce members if they do not have extensive interviewing experience.

c. Interviews

Interviewers developed expertise as the pilot progressed and asked questions in different formats, deliberately adopting different approaches in the interviews (using the script as a rough guide only). As anticipated, within days it was clear clients were sharing stories about the interview process and questions asked. Given accommodation pressures interviewed clients were not able to be segregated. With these immediate pressures ongoing, this is unlikely to occur in the future either.

The team stopped using the family tree method (asking clients to draw their family tree), as clients were using these as a visual guide to form their responses for the remainder of the interview.

There was difficulty in securing interpreters, as well as concerns about the abilities of interpreters (feedback provided to Interpreter Liaison Team).

Taking into account availability of interpreters, client availability and length of interviews, the taskforce generally completed about 7-8 interviews per day (3 interviewers with 2 people per interview). Interviews, including the preamble took an hour or a little over an hour to complete. The team worked from 8-5.30pm and then another 3 hours each night for write-ups and preparation for the next day. The taskforce recommend 4-5 interviews per day (per interviewer) in the morning, with afternoons dedicated for write-up/preparation.

Two IAAAS agents participated in the interviews. One stated she saw value and was quiet throughout the interview. The other agent interjected continuously, objecting to the use of appearance and behaviour as indicators of age. The taskforce recommend IAAAS agents are provided a copy of the report and not attend interviews as the process is about identity rather than an assessment of refugee claims.

Client health

Mental health and/or behavioural issues were not flagged with taskforce prior to interviewing. One client had received mental health assistance shortly before their interview which the team was not aware of. While the taskforce would not be privy to the specifics of any mental health issue, it would be prudent for this and any other behavioural issues to be flagged with the taskforce to ensure they are mindful of any triggers/reactions.

Where the taskforce had concerns about a client's response to the interview process this was flagged with their case officer and a request made that they follow up with the client to ensure they were ok. This practice was employed

approximately four times.

Serco did not routinely provide a security guard at interviews despite repeated requests. Serco provided security when property was damaged by one client following an adverse client response.

d. Assessment

The template provided had five areas of assessment physical appearance and demeanour; behaviour; family history; education; and social history and independence. For each criteria, an assessment was required as to whether is unlikely; possible; likely or unclear whether the client was under the age of 18. The average time required for assessments write-ups was 30-60 minutes depending on the complexity of the case.

In the first phase, of the 30 clients interviewed, only one was assessed as likely to be under the age of 18. There were no split decisions within the interview group, all decisions were unanimous. It is likely the outcomes of this taskforce will have a higher proportion of adverse assessments than future taskforces due to the fact that 20 of the 30 clients assessed were referred as clients of high concern by departmental Christmas Island staff. In the second phase however, there were split decisions and also a higher proportion of IHMS refuting the DIAC view.

Adverse assessments ranged from significant inconsistencies with claims and appearance/behaviour consistent with an adult to cases where inconsistencies were not identified however based on appearance/behaviour the interviewer was of the view that the client was over 18.

One issue that may arise as a result of this overall assessment is the weighting given to certain factors – for example, for some clients, the behaviour and appearance criteria were considered significant enough to weigh against other factors.

e. Stakeholder engagement on Christmas Island

Stakeholders on Christmas Island engaged by the taskforce were generally supportive of the pilot and some expressed concerns (for example, Serco staff) about number of clients in Construction Camp purporting to be minors. IHMS staff were unaware on the ground of discussions held between national offices.

The role of IHMS essentially gave the opinion of the IHMS doctor the deciding view of whether the client was over or under 18. Since the pilot, IHMS has decided not to participate in any further age determination assessments such as those in the pilot.

f. Post Assessment

A small number of clients provided documents post assessment which they claimed verified their claimed minor age. This was considered a positive

outcome for the pilot in that clients were encouraged to produce evident of their age (and identity more broadly).

These cases these were photocopies of documents and it is extremely difficult for the department's document examiners to assess the authenticity of these documents. Any future age determination process will require clear guidance/policy advice on what documents will be accepted by the department, in what format, and the 'weight' these documents will be given in assessing a client's claims to be a minor.

6. RECOMMENDATIONS FOR BUSINESS AS USUAL AGE DETERMINATION MODEL

It is clearly understood that the process of verifying and testing age claims for self-identified minors must be incorporated into the department's business as usual practices. It is neither sustainable nor desirable to send in interviewing teams to immigration detention facilities on an ad hoc basis to address age claims.

Issues that need to be considered include (but are not limited to) which area of the department will 'own' the policy around these issues; what role IHMS or specialist medical officers will have in the process; who should undertake the process and what type of training/skill set that officer should have.

There are a number of ways to introduce age determination processes within the department. This report's draft recommendations take into account the resource limitations and recommend a two-pronged approach – a taskforce to reduce the number of IMA clients currently in the immigration detention network where there are concerns/doubts over their claims to be a minor, as well as introducing a business as usual age determination process.

These recommendations will be discussed with internal stakeholders at the *Age Determination Workshop* on 19 April 2011.

a. Suggested Principles – Age Determination

Below are some suggested principles the department may wish to adopt in relation to its approach to age determination.

- DIAC will accept an individual's claim to be under 18 (including those who have previously claimed to be an adult) unless one or more of the following criteria apply:
 - there is credible and clear documentary evidence that they are 18 years of age or over;
 - a full age assessment (e.g. age determination interview) is available concluding that they are 18 years of age or over:
s. 47E(d)
- Clients will be encouraged to admit to their correct age from the very beginning of their interactions with the department.
- Departmental age determination processes are about forming a view that the person is more likely to be over or under 18 by taking a range of

s. 42

factors into account (not determining someone's exact age).

- Clients will also be given reasonable opportunity to contest the department's findings in relation to age.
- It will always be open to the client to provide proof of their age and they will be encouraged and supported to obtain proof of age from their home countries.
- All departmental officers who collect identity information have a responsibility to actively assess any issues with regard to the age of minors.
- An age determination process to assess a client's claim to be a minor, where there is doubt, is conducted as soon as possible.
- Departmental officers are provided with clear and helpful toolbox of advice and support to assist decisions about age determination (e.g. clear triggers for referral, interview technique, expertise provided by Identity Branch, document examination, support from senior officers etc).
- A clear record of identity history and any changes recorded accurately and accessed by all relevant departmental officers.
- The default date ought to be used where only a year of birth or an age in years is known and this is to be recorded as 31/12/the year of birth declared by the client, or if an age is declared then 31/12/year that makes them that age.
- Where the age assessment is that the client is 18 or over, the date of birth is to be recorded as 31/12/the year of birth that makes them 18 of the day of the assessment.

b. Recommendations

The following are a range of draft recommendations from the pilot that the department should consider to progress the issue of determining the age of disputed minors:

Main recommendations

- The department will introduce a business as usual age determination process.
- Until such time as a business as usual model is adopted, a further taskforce be allocated to work through the backlog of IMA clients who have changed their date of birth and/or DIAC officers have raised concerns about those clients who present as under age of 18.
- That a specialist integrity/identity officer (based on Christmas Island in the first instance, followed by other detention facilities) be responsible for

undertaking age determination interviews with clients who have been referred by other departmental officers and/or service providers.

- That the specialist officer be assisted by another experienced interviewer (possibly a case manager?) in interviewing clients regarding their age.
- The gender of the interview teams are culturally appropriate to the clients.
- That the 'age determination' be made by the specialist integrity/identity officer after collecting any relevant evidence including prior to, and during the interview; the opinion of the interviewer assisting; medical/other specialist opinion (if necessary); and client documents etc.
- If further credible information comes to light after an age determination has been made, the issue can be re-opened for assessment. Until such time as the further information is considered, a client will remain in their current accommodation (this is the general position but will depend on the nature of the further information).
- If a client initially presents as an adult but wishes to change their date of birth, which would then see them treated as a minor, that the client remain in their current accommodation until an assessment is undertaken, and or the information is considered.
- Undertake an education campaign within the immigration detention network to advise minors and would-be minors of the long-term implications of deciding to present as a certain age, with a particular focus of education on-arrival.
- Finalise and formalise the default date of birth (31/12) within the department.
- Develop and provide business process and systems support that supports age determination so a client's 'age' history/assessment is clear to departmental officers (i.e. default, claimed DOB, changes identified are obvious) and unable to be overridden without specific approval.

Additional recommendations to be discussed

- Education of stakeholders on the age determination process – including uses and limitations of interviewing technique, physical checks etc.
- In regard to IMA clients, consider whether to introduce assessment by case managers when clients first indicate they are minors and seek to be transferred. A similar approach to the pilot could be used with two officers conducting an interview. They could present their findings to an EL1 or EL2 (senior case manager, Identity Integrity officer?) for sign off.
- The department may also wish to consider specifically briefing clients at the biodata interview stage that the age that they provided at that point will

be used unless they can provide documentary evidence to support any claims regarding a change.

- Reporting mechanisms introduced, as well as a quality assurance and/or review process to be introduced to ensure consistency and accuracy of age determination process implemented.
- The department should continue to monitor IMA arrivals to ascertain if there is a change in the age profile – disputing minor claims for older unaccompanied minors (UAMs) results in a number being found to be over 18, it may have an unintended consequence of increasing the number of younger minors arriving by boat.

7. APPENDICES

- A. Summaries of two cases of disputed bone scan based age determinations (Notes from Federal Magistrate's Court and the RRT)
- B. Excerpt from *The Health of Refugee Children: Guidelines for Paediatricians*
- C. Summary of International Practice
- D. Guidelines for Conducting Interviews to Assess Disputed Minor Claims – Pilot Process
- E. Hand down of Age Determination Outcomes – Pilot Process

Released by DIBP under the
Freedom of Information Act 1982



*Summaries of two cases of disputed bone scan based age determinations
(Federal Magistrate's Court and the RRT)*

Applicant VFAY v Minister for Immigration & Multicultural & Indigenous Affairs [2003]
FMCA 289 (Federal Magistrates Court, judgment of Federal Magistrate Phipps, 7 May 2003)
- The Applicant, from Afghanistan, was in immigration detention. His eligibility for a visa was dependent on him being a minor (under 18). He claimed he was born in early 1986. The Department arranged a radiological examination. The radiology report (of a left hand and wrist X-ray) stated that, on average, persons with the applicant's skeletal maturity are 19. The report relied on the Atlas of Greulich and Pyle, which is a system employed by the medical profession in measuring or estimating skeletal maturity from radiographs. The Department refused to grant a visa. The applicant challenged the visa refusal decision in the court.

Expert evidence was led from two paediatric radiologists. It was noted that there are several systems employed in estimating skeletal maturity from radiographs, and that the Greulich and Pyle method is prevalent in Australia. However, the expert evidence did not conclusively prove the applicant's chronological age:

- Dr Ratcliffe considered that the Greulich and Pyle Atlas could not be used as a reliable method of determining the Applicant's age from the hand and wrist X-ray. Dr Ratcliffe said that the Greulich and Pyle Atlas was not created for the purpose of ascertaining a person's chronological age and it was hazardous to attempt to use it for that purpose. It was created to ascertain means and standard deviations for skeletal age. Evidence was given about the standard deviations. It was also noted that the Atlas was derived from studies of healthy, white, middle-class children in Cleveland, Ohio, between 1931 and 1942. Other more recent though small studies suggested that the skeletons of children from some other countries matured earlier than those from Cleveland, Ohio;

- Dr Jensen, influenced by an academic paper*, was open to the view that the Atlas could be used for estimating skeletal maturity of any child, therefore, including Afghan children. [* *"Effects of ethnicity on skeletal maturation: consequences for forensic age estimations"* by A Schmeling, W Reisinger, D Loreck, K Vendira, W Markus and G Geserick]. However, he noted that departures from the standards in the Greulich and Pyle Atlas could be explained by socio-economic factors.

In the circumstances, the court was prepared to accept the Applicant's evidence as to his age. His evidence, tested by cross-examination, did not lack credibility. His story had been consistent since his arrival in Australia and there was nothing in it which made it improbable. The Court noted that considerably more could have been done to scientifically determine the applicant's age (eg the Schmeling paper refers to physical inspection by a forensic pathologist and a dental assessment by a forensically experienced dentist, including dental status and evaluation of an orthopantomogram). The Applicant was not in a position to produce this evidence. The court was also influenced by the seriousness of the issue (the applicant's ongoing detention) and the disadvantages which the Applicant faced as litigant in

the court (limited legal assistance and his evidence given by video link from the immigration detention centre).

Summary: This judgment suggests that Australian courts and Tribunals will exercise great caution in accepting bone age as an accurate indicator of chronological age.

<http://www.austlii.edu.au/au/cases/cth/FMCA/2003/289.html>

Ahmed Mohamed Noor - VO504672 [2007] MRTA 385 (Migration Review Tribunal, Tribunal member Rea Hearn-Mackinnon, 13 August 2007) - this case concerned an application for a Child (Migrant) (Class AH) visa. The criteria, to qualify as an orphan relative, required the visa applicant to be under 18 at the time the application was lodged. The applicant claimed to have been born in Somalia sometime in 1989. The visa application was lodged in 2004 (when the applicant was about 15 or 16 on her account). A radiological report of a wrist X-ray taken in Nairobi a few months after the application was lodged suggested that the applicant was more than 17 but less than 25. The visa application was refused for this and other reasons.

On review at the MRT, the X-ray was re-examined by Dr Timothy Cain of the Royal Children's Hospital in Melbourne. He assessed the skeletal age at 18 - 20. He advised that estimation of chronological age using skeletal maturity is prone to variation associated with nutrition and ethnicity, that there is significant influence of hormones associated with the onset of puberty and that the skeletal age of Africans is often 6 months advanced to that of Caucasians at the same chronological age. Dr Cain noted that the most widely used reference for skeletal age is the work of Gruelich and Pyle. By these standards, the visa applicant had a skeletal age in excess of 17 years at the date the x-rays were taken and, with some allowance for her race, there is between a 0.5% and a 2% chance that she was aged 15 and 5 months at the date of the x-rays whilst having a skeletal age of more than 17 years.

The Tribunal referred to the decision in *Applicant VFAY v Minister for Immigration & Multicultural & Indigenous Affairs* [2003] FMCA 289 and concluded as follows:

"The medical evidence presented in the form of the report from the Royal Children's Hospital notes the unreliability of using skeletal age to determine chronological age and does not exclude the possibility that the visa applicant was aged 15 years and 5 months at the time of the x-ray. This is consistent with the expert evidence accepted by the Court in *VFAY*. If in fact the visa applicant was closer to 17 at the date of the x-ray then she will fall more clearly within the standard deviations identified by Greulich and Pyle.

The Tribunal considers the review applicant to be a credible witness. Both he and the visa applicant are reliant on the information provided by the visa applicant's former caregiver, Amin. The Tribunal accepts that there is no documentary evidence in relation to the visa applicant's date of birth and considers the radiological evidence to be inconclusive for the reasons set out above. Taking into account all of the evidence, including affidavit evidence by the sponsor, the Tribunal accepts that the visa applicant was aged under 18 years at the time of application."

Summary: This Tribunal decision is consistent with the approach taken by the court in VFAY.

<http://www.austlii.edu.au/au/cases/cth/MRTA/2007/385.html>

5.5.2 Learning difficulties

Poor educational performance is often taken to be due to difficulties experienced with English as a spoken language. Children's comprehension is in advance of their expression and they understand more than they appear to. Two years is said to be the time it takes for the expression of language to reach the equivalent of the indigenous population. However this is too long to wait to detect learning difficulty due to, say, hearing, vision or developmental problems. The school nurse should screen children in the first instance. Pertinent questions are whether or not there has been disruption of schooling in the home country and if not, whether the child's attainments in school were age equivalent or whether he/she was put back a year in the home country. Children who have had schooling disrupted may have difficulties concentrating initially but if treated with firm consistent boundaries soon settle.

5.6 Puberty and the assessment of age

Paediatricians may be asked to give their opinions on whether a young person is a child under the age of 18. This request may be made by the child's legal representative, who may be seeking to show that the young person in question is under the age of 18, as those accepted as such should not normally be held in detention. The paediatrician's assessment should only be done in the context of a holistic examination of the child. When making their assessments, paediatricians may find it useful to be aware of the Asylum Casework Instructions used by the Immigration and Nationality Department of the Home Office. An excerpt from these is given at the end of this section of the guidelines (see page 14).

In practice, age determination is extremely difficult to do with certainty, and no single approach to this is can be relied on. Moreover, for young people aged 15-18, it is even less possible to be certain about age. There may also be difficulties in determining whether a young person who might be as old as 23 could, in fact, be under the age of 18. Age determination is an inexact science and the margin of error can sometimes be as much as 5 years either side. Assessments of age measure maturity, not chronological age. However, in making an assessment of age, the following issues should be taken into account.

5.6.1 Puberty and anthropometric measures

It is virtually impossible to deduce the age of an individual from anthropometric measures. There are clearly defined methods for rating puberty as described by Tanner and

colleagues in 1962¹⁸. These give the ages of various stages of attainment of pubertal appearances, commencing on average at 11 years in both males and females and going through to the final stages acquired two or three years later. The process involves the acquisition of these stages in a carefully defined order. However, the timing of the onset of puberty is extremely variable. Girls may have the first signs at about the age of 8 or 9 years and boys at about 9 or 10 years of age. Equally, pubertal delay can also take place and the first signs may be significantly delayed to 14 or 15 years in boys. Accordingly, therefore, it is not possible to give a precise age of an individual from these stages.

The situation is complicated in refugees where alterations in nutritional status and illness compound the problem delaying puberty so that a person may actually be older than they appear from pubertal development. Further, there are ethnic differences in the onset of puberty. In particular, in the Indian subcontinent a slightly earlier onset puberty is quite common, so that, for example, a boy with extensive facial and body hair may appear to be older than he actually is, according to Caucasian developmental norms. For these reasons it is simply not possible to deduce the age of an individual from an assessment of puberty, although pubertal assessment should be considered as part of good clinical practice in the assessment of these individuals.

The issue of whether the chronological age can be determined from the estimate of bone age has been discussed at great length in the literature. The answer is that it cannot. The problem is that an adult bone age may be acquired at a range of ages in childhood, although it commonly takes place around the child's 16th or 17th birthday in males and the 15th or 16th birthday in females. These averages are influenced by a range of factors that may affect the timing of the onset of puberty and the whole process of skeletal maturation.¹⁹

Overall, it is not possible to actually predict the age of an individual from any anthropometric measure, and this should not be attempted. Any assessments that are made should also take into account relevant factors from the child's medical, family and social history.

5.6.2 Assessment of bone age

In 1996, The Royal College of Radiologists²⁰ gave useful advice to its members about the use of X-rays in the assessment of age. They advised that if an immigration official requests an applicant to have a radiograph obtained to confirm their alleged chronological age, the College would regard it as unjustified. They argue strongly that

ionising radiation should be used only in cases of clinical need. However, if an individual seeking entry wishes to support their case, an X-ray of the hand presents negligible risk of radiation. However, they add that the accuracy of estimation of age from hand radiography amongst groups that have not been studied in detail remains in doubt. The Board of Faculty expressed reservations about advising on bone age for other than personal health issues or research projects approved by appropriate ethics committees.

5.6.3 Dental age

The dental age of the human from birth to 18 years can be judged by a consideration of the emergence and development of the primary and secondary dentitions. Thereafter estimates have to be based on wear of the dentition and are much less accurate.²¹ There is not an absolute correlation between dental and physical age of children²² but estimates of a child's physical age from his or her dental development are accurate to within + or - 2 years for 95% of the population and form the basis of most forensic estimates of age. For older children, this margin of uncertainty makes it unwise to rely wholly on dental age.

5.6.4 How paediatricians' reports on age determination may be received

While some paediatricians have extensive experience in undertaking assessments of age and in writing reports, they seldom have the benefit of seeing how these reports are received by immigration authorities or appellate bodies. Great care should be taken by paediatricians in how reports are presented, and as the BMA advises, medical reports should be "factual, detailed and carefully worded".²³

In utilising paediatricians' reports, immigration officers and adjudicators should give due weight to social and cultural factors in addition to the physical factors, in view of the difficulties inherent to age determination described above. For example, it may be relevant to relate physical attributes to the child's account of their former lifestyle, eg what responsibilities they undertook in their country of origin, what education they had experienced etc. However, it appears that immigration officers and adjudicators are sometimes more influenced by medical "facts" than by social histories, although social factors may be of the utmost importance. Therefore, paediatricians should always try to explain how and why the social history is relevant to a particular child's assessment. It may not be sufficient to describe social factors and to assume that their relevance will be appreciated and given due weight. It is also

important not to take for granted any prior knowledge of variations in the onset of puberty etc. Where a child is from an ethnic group that tends towards an earlier onset of puberty, this should be made clear.

Age determination - a summary

- The determination of age is a complex and often inexact set of skills, where various types of physical, social and cultural factors all play their part, although none provide a wholly exact or reliable indication of age, especially for older children.
- Assessments of age should only be made in the context of a holistic examination of the child.
- As there can be a wide margin of error in assessing age; it may be best to word a clinical judgement in terms of whether a child is probably, likely, possibly or unlikely to be under the age of 18.

Excerpt from the Asylum Casework Instructions, Chapter 2, Section 5. (Immigration and Nationality Department) February 1999

"3.13. Medical assessments of age

If an applicant's age is in dispute and he is unable to supply any reliable documentary proof to support the claim that he is a child, it is open to him or his representatives to obtain a medical assessment of age. Any examination must be voluntary. Therefore it would not be appropriate to insist or even to request that a medical report be submitted. In most cases age assessments are conducted by paediatricians. It is not Home Office practice to commission paediatrician's (sic) reports.

Due weight must be attached to any medical assessment of age that is received, but it should be noted that age determination is an inexact science and the margin of error can be substantial, sometimes by as much as 2 years either side. As the paediatrician can only offer an estimate of age, all estimates should also refer to the margin of error associated with that particular estimate.

The Department of Health's advice is that even the most thorough medical tests cannot provide conclusive evidence of a young person's age as they measure maturity, not chronological age.

It is inappropriate for X-rays to be used merely to assist in age determination for immigration purposes. Under no circumstances should a caseworker suggest that an applicant should have X-rays taken for this purpose."

It is also important to note that estimates of age may lose credibility if they are too precise. A form of words such as "Her/his age may be in the range x-y years" or "He/she is likely to be the age that he/she claims for the following reasons [give reasons] may be appropriate.

Wherever possible, paediatricians should be careful in their choice of words so that they do not inadvertently undermine the child's own story. For example, it may be helpful to be wary of making stark statements such as "The child does not know his own birthweight or date of birth". While these statements may be true, they may actually cast doubt on the reliability of a child in a context where he/she may be readily disbelieved.

5.7 Mental health

There are many important factors to consider in relation to the emotional and psychological health of refugee children. Many issues are also relevant to adult refugees, but some factors are specific to children and young people. Children may also be affected by their parents' psychological state and adults pre-occupied with the implications of their refugees' status and the traumas they have suffered may not be as emotionally available to their children as they might wish.

5.7.1 The incidence of mental health problems

It is generally accepted that there is a higher rate of mental health problems in refugee communities²⁴ and that refugees may experience particular emotional and mental health problems related to their experiences^{25,26,27}. It is also important to note that many refugees encounter racism and other forms of discrimination, and even where legal redress is possible, their vulnerability makes it difficult to challenge it effectively. The experience of encountering racism in a place that had been seen as a safe haven is all the more devastating to those who experience it. Experiences of individual and institutional racism may lead to a breakdown in trust, with adverse consequences to people's health. Other factors, such as poverty, poor housing and loss of status may also undermine a sense of emotional well-being in both adults and children. However, the resilience, as well as the vulnerability, of refugees should be acknowledged.

As a report from the Health of Londoners project²⁸ points out, the mental health problems of refugees can encompass both problems of adjustment and less common, persisting reactions to trauma. The former are common and need good educational and social service support, as well as some specific services such as counselling and appropriate primary care for

problems such as depression. The less common persisting reactions to trauma may require specific psychological interventions, and this is discussed further below.

5.7.2 What is pathological?

One of the conundrums for paediatricians is the issue of what is pathological and what is not. Some doctors make the point that some of the common responses to the experiences of refugees should not be looked on as psychiatric conditions²⁹. In this situation it is suggested that supportive listening is very valuable, and this may be best undertaken by people from the person's own culture who have become established here, where that option is available.

However, it is also important that children with severe psychological problems should not have those problems unrecognised.

*"Some people may well protest that it is "pathologising" or "medicalising" these experiences to be talking about stress reactions at all, let alone talking about PTSD [Post Traumatic Stress Disorder]. there are wide individual differences in response to stress and by no means all children exposed to a life threatening experience go on to develop PTSD. But many do show other stress reactions and, of course, children who have been uprooted from their homes and who may have lost a parent or other loved one during the turmoil may also have other unresolved grief reactions. While recognising that most of these reactions are "normal" in the sense of being understandable, they still require that action be taken by those in authority to alleviate the children's distress."*³⁰

Paediatricians will, in all cases, need to make careful and culturally sensitive judgements on how to interpret physical and psychological symptoms of stress and trauma.

5.7.3 Different cultural approaches to mental health and mental illness

Paediatricians should be aware that some refugee children will be from cultures where mental illness and psychological distress are taboo subjects, and physical symptoms such as headaches, insomnia, stomach ache etc. may be the way in which emotional distress is presented. Some cultures may have a concept of mental illness only in its most severe form, and may not conceptualise emotionally or psychologically based childhood disorders.³¹ There may not be words in all languages to translate English words for various kinds of emotional distress.

5.7.4 Reactions to trauma and loss

Children affected by war and international upheaval may experience a variety of signs of stress. These may include:

Issues concerning the use of wrist X-rays for age determination

Unreliable

The test was developed 1931-1942 using a sample of 1000 Americans of Northern European descent from upper socioeconomic classes. Factors such as climate, ethnicities, health, nutrition and environment all play a role in bone development. This is the main concern with the test as it does not take these factors into account. Recent studies indicate that using the test to determine the age of Asian or Hispanic children often vastly overestimated age.

Does not give a definitive age

The results of wrist x-ray age determination tests are not definitive. The test is essentially comparison based with the results providing a 'mean age estimation' and an 'error range' only. Most research concludes the margin of error for the test is at least 2 years either way. The results are also subjective; it is possible for two professionals to interpret the same data differently.

- In Switzerland the use of wrist x-ray for age determination purposes was stopped in 2000. The Swiss Asylum Appeal commission determined that bone age may be up to three years different from chronological age.
- In the UK the Royal College of Paediatricians advise that wrist x-ray age determination testing can be incorrect by up to 5 years.
- In Austria the use of wrist x-ray has been discontinued as it has been deemed unreliable.

Not designed for age determination

The test was not designed for the purpose of age determination. The method was developed to evaluate possible growth disorders and for predicting adult height. This is done by comparing chronological age and bone age. Uses of the test for age determination purposes are therefore inherently problematic.

Non Medical use of X-rays

All X-rays expose the patient/applicant to radiation. For this reason the non-medical use of x-ray is not a practise that is promoted especially when the results are of limited/questionable value.

- In the UK the Royal College of Radiologists advised its members that if immigration officers requested x-rays for the sole purpose of age determination the request should be considered as 'unjust'.
- In Germany the non-medical use of x-rays is illegal except for the purpose of criminal prosecution.

UK Policy

- An initial determination is made at the time of first interview, if the applicant appears to be over 18 the policy is to treat the applicant as an adult. These applicants are referred to as 'disputed minors'.
- All 'disputed minors' are then referred to the Refugee Council Panel. The Panel can support the applicant if they wish to appeal the decision.
- 'Disputed minors' can present to UK social services at any stage and ask for the decision to be reviewed.
- Due to recent advice from the Royal College of Paediatricians that suggested that physical testing can be out by up to five years, UK officials are very reluctant to accept physical evidence of any form.
- If medical evidence is available it can only be used as part of an overall assessment.
- General policy is that it is not 'good practise' to require young asylum seekers to under go invasive medical testing, especially when there are doubts of their usefulness.
- At the practical level very few doctors are willing to actually perform these tests.

Guidelines for Conducting Interviews to Assess Disputed Minor Claims – Pilot Process

Background

Determining the age of a person who claims to be a minor in the absence of documentation or any other objective evidence is difficult and relatively controversial.

There is quite a debate across asylum seeker receiving countries around the world about the most appropriate and reliable means to do so.

The department had been giving the benefit of the doubt to people who claimed to be minors where no evidence was available to the contrary, in particular to address the risk of detaining a minor in a detention centre. Over time however, more people are claiming to be minors and there is feedback now available from settlement providers onshore that indicates quite a number of them may not in fact be under 18.

As a consequence, the department has decided to pilot an interviewing approach to assessing the credibility of a person's claim to be a minor. This process is not about determining a person's chronological age, but forming a view that the person is more likely to be over or under 18 taking a range of factors into account.

Pilot Approach

The approach is through interviewing, asking a series of questions, not necessarily one after the other but interspersed, which go to chronology around schooling, ages of siblings, birth dates, when certain events occurred and so on. Any chronological inconsistencies which emerge will be put to the client. Interviewers will have access to, and consider, other documentation before conducting these interviews eg. record of entry interview, any identity documents and/or records of discussions with DIAC staff in relation to their change of date of birth claims.

Specific client group identified for the purposes of the pilot

For the purposes of the pilot, it is intended that the initial focus will be on clients who initially presented as adults but have subsequently identified themselves as minors. Given this particular client group, whilst the interviewing team will work through the various categories below, there will be a particular focus on the different information provided by the client about their age and why their story has changed.

Interview

Interviewing officers will take a low-key, commonsense approach to the interview. The clients will be aware that the interview is being conducted for the purposes of testing the veracity of their claim to be a minor. The client will be accompanied by a support person from Life Without Barriers.

As with other departmental interviews, clients will be provided with information regarding the consequences of providing false and misleading information. Clients will also be advised of the consequences of an assessment by the Department that they are over 18 years of age eg. no priority processing, likely changes to accommodation arrangements.

Procedural fairness

Given the particular client group, the client will be given the opportunity upfront to reassert what they now say their age is and to explain why different information has been provided.

During the course of the interview, where the interviewer is concerned about the general story of the client or the client's response to a particular question (eg. directly contradicts another response the client has given), then the interviewer will clearly articulate the concerns, the reason for the concerns and put those concerns to the client. In putting those concerns to the client, the interviewer will identify the source of the information (eg. information in entry interview inconsistent with information provided in current interview).

Before coming to a view about whether the client is a minor or adult, the interviewer will ensure that information taken into account in forming that view has been put to the client for comment. This may involve a second interview.

Role of support person

It is considered that the attendance of a support person for the client is important in this context. If, and until, any assessment is made, the client will continue to be treated as a minor.

In other, similar, settings, minors have access to a support person to ensure that the minor understands their rights and to help them assert those rights.

The support person can actively participate in the interview and intervene where they think it is appropriate. For example, if the support person considers the client has not understood a question, they may ask the interviewer to rephrase it. Also, if the support person senses that the young person does not want to answer any more questions at all, the support person may ask them if they want to continue with the interview. If they do not, the support person may request that the interview be ended.

The support person is not there to provide legal advice (but can certainly provide advice and assistance). Further, the support person will not be

allowed to answer questions for the minor, or to interfere unreasonably with the interview.

Immigration Advice and Application Scheme (IAAAS) agents

All IAAAS advisors have been contacted in writing to give some background to the pilot including the purpose of the interviews, how clients have been selected for the purposes of the pilot (ie. initially identified as an adult and have subsequently identified as a minor) and that a copy of the assessment report will be provided to a client's IAAAS agent.

Clients assigned an IAAAS agent prior to this interview will be advised at the commencement of the interview that all IAAAS agents including theirs has been contacted and advised about the process and that they can contact their agent after the interview if they wish to discuss the process.

For those clients not assigned an IAAAS agent prior to interview, they will be advised that a copy of the assessment report will be provided to their IAAAS agent when their claims are assessed.

Areas of inquiry

Following are some questions and areas of inquiry which could be used at interview. A more detailed interview format (with specific questions listed) is at **Attachment A**. An assessment/report format is at **Attachment B**.

All areas of inquiry should be considered in light of cultural and religious norms relevant to the client. Comparisons/expectations should be to the client's cultural/religious group and not Western norms.

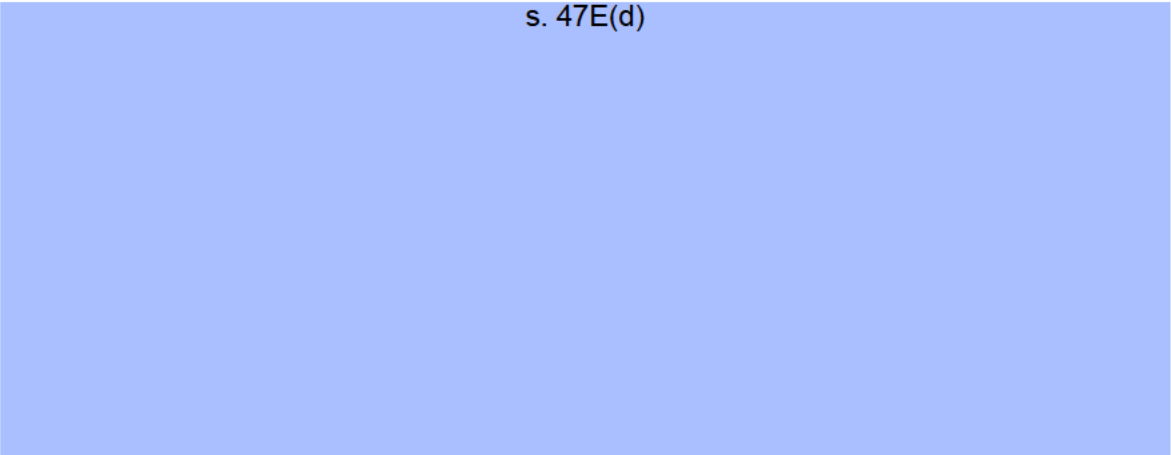
Physical Appearance/Demeanour

s. 47E(d)

Behaviour


s. 47E(d)

s. 47E(d)



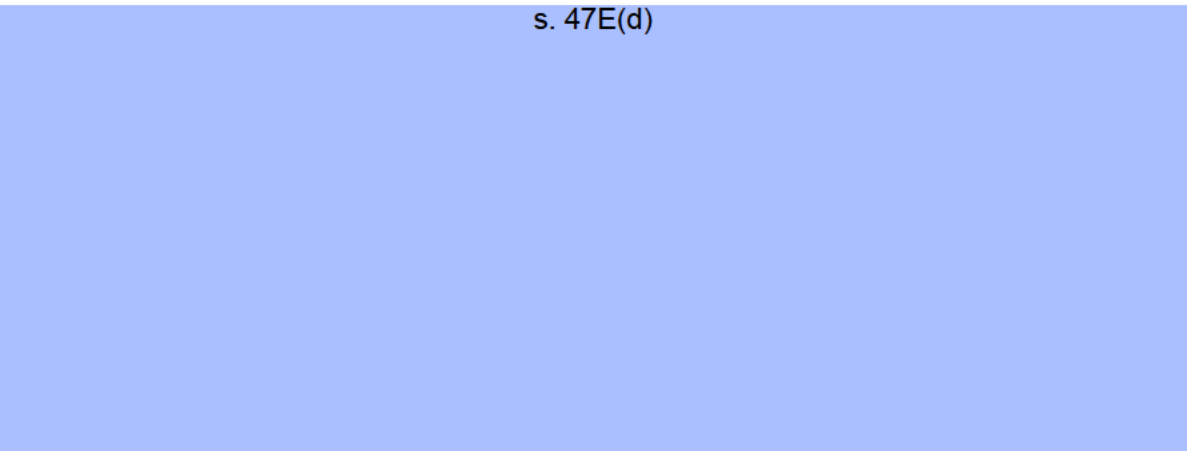
Family History

s. 47E(d)



Education

s. 47E(d)



s. 47E(d)

Social history/Independence

s. 47E(d)

Health and Medical Assessment

- Questions about the person's health history can be informative in assessing age, both from the information given and the reactions to specific questions
- Questioning here is not about physical maturity but about their health history – this is an important distinction

Assessment

- Taking into account all responses at interview, the two interviewing officers will form independent views as to whether or not the person is over 18 years of age. An assessment/report template is provided at **Attachment B** to assist interviewing officers.
- This process is aimed at identifying cases where people are clearly and significantly over 18. Cases at the margins or where there is any doubt should continue to be managed as minors.

- Where both of the interviewing officers form the view that the person is over 18 (ie the claim to be a minor is not credible), they will then seek the view of the Health Services Provider, IHMS as to whether they agree with this view.
- IHMS is not requested to undertake any medical investigations, examinations or physical evidence – just to provide an informed opinion.
- If IHMS does not endorse the view of the interviewing officers then the department will continue to treat the person as a minor.
- If these three sources agree that the balance of probability is that the person is not a minor (ie is over 18 years of age), this will establish the department's position on the case.

As noted above, the client will be given the opportunity to respond to the interviewing officers concerns about their story throughout the course of the interview. Also, it will always be open to the person to provide proof of their age and they will be encouraged and supported to obtain proof of age from their home countries. They will also be given reasonable opportunity to contest the department's findings in relation to age with evidence.

It should be noted that such interviews and determinations will not give us the actual age of the person, unless they volunteer that information. While we will be able to make decisions about their status as a minor, we are unlikely to establish an age or date of birth (and we are not setting out to do this).

Assessment of DISPUTED AGE

– Interview Format for Pilot

Interview Format

(Start recording equipment)

The following is a record of interview held on _____ 20__.

The interview is commencing at _____. It is being held at Construction Camp, Christmas Island.

Present are _____ and _____ both officers of the Department of Immigration and Citizenship.

This interview is conducted using the interpreting services in the _____ language of Translation and Interpreting Service interpreter identity _____.

Also present is _____ (support person) of Life Without Barriers.

(To the person being interviewed:)

All information given by you during this interview will be treated as confidential. We are recording this interview. This interview is recorded to make sure the department has an accurate record of the interview.

☐ Do you have any objection to the interview being recorded?

You have been assigned an interpreter for this interview. The interpreter is an accredited interpreter of the Translation and Interpreting Service. Being an accredited interpreter means that the interpreter is bound not to tell anyone else anything they hear during the course of this interview. The interpreter is only here to assist with the language, they do not have anything to do with this assessment. If you do not understand something that I say or have any difficulties with the interpreting, at any time during the course of interview, please let us know immediately by raising your hand (like this). The interpreter will also raise their hand if they need clarification. (ensure that the interpreter is aware of this)

- ☐ Do you understand the interpreter?
- ☐ Do you have any objection at this time to the interpreter?
- ☐ Do you know the interpreter? (Affect fair/objective assessment?)

Purpose of the interview

You have recently identified yourself as a person under the age of 18. This is inconsistent with the information you provided on your arrival to Christmas Island. We are giving you the opportunity to clarify this discrepancy and satisfy us that this new information is not false or misleading.

The purpose of this interview is for us to make an assessment about your age. During this interview you are required to provide all information that may be relevant to assist us in making this assessment. To clarify, this interview is not your Refugee Status Assessment (RSA) interview. Our assessments will be attached to your departmental file. This information may be used by other departmental officers considering your case including the officer who assesses your claims for refugee status.

You should answer the questions truthfully and fully. Under the Australian Criminal Code, it is a criminal offence to provide false or misleading information to a Commonwealth official.

☐ Do you agree to provide truthful information and cooperate with us during this interview?

It is important for you to know that following this interview we will make an assessment as to whether you are under the age of 18. If we decide you have been giving us false and misleading information about your age, it will be taken very seriously. For example, it will raise doubts about the reliability of what else you have told us including information about your claims for refugee status.

You have an opportunity now to ensure that we record your correct age. This will assist other officers when they come to assess your claims for refugee status.

You will be given an opportunity to provide us with evidence which confirms your date of birth. You are encouraged to obtain proof of your age from your home country. If you would like to do that, please let us know.

I will also give you the opportunity throughout the interview to address any information that you provide to us that is not clear, is contradictory to other responses you have provided or otherwise concerns us in relation to the claims you have made about your age.

Information you provide at this and any future interview may be used or disclosed as the basis for checks with authorities in countries through which you have passed or in which you have resided since you left your country of origin.

The information may also be disclosed to Australian government agencies including those involved in security and law enforcement matters.

This information you provide may also be used to carry out checks with international humanitarian agencies concerning any contact you may have had with them.

☐ Do you understand?

[For clients who have been assigned an IAAAS agent]

All IAAAS agents including yours have been advised about this interview process and the purpose of the interview. If you wish, you can call your IAAAS agent after this interview to discuss this process further. Your IAAAS agent will be provided with a copy of the assessment report.

Prepared by Principal Advisor's Unit, CSM Division (draft current 20/07/2010)

[For clients who have not yet been assigned an IAAAS agent]

At this stage, we note that you have not been assigned an IAAAS agent. When your claims are assessed, your IAAAS agent will be provided with a copy of the assessment report.

☐ Do you understand?

SUGGESTED BACKGROUND QUESTIONS

[For the pilot client group ie. client originally identified as an adult but subsequently provided contrary advice that they are still a minor.]

- According to our records, your full name is _____
- What is your date of birth?
- If you do not know your date of birth, how old are you?
- Why do you think you are that age?
- Originally, you advised that you were xx years of age. You now say that you are yy years of age. Can you explain why you gave different information about your age?
- Do you have documents to prove you are that age? eg school, id card, etc

SUGGESTED QUESTIONS /AREAS OF INQUIRY

Family history

s. 47E(d)

Educational history

s. 47E(d)

Social history/independence

s. 47E(d)

s. 47E(d)

- The assessing officer may wish to pose a scenario to the person at this point or at the end of the assessment; that if the person is believed to be under 18, he/she will be placed in foster care where certain house rules will have to be followed (no smoking for example) and be expected to be home at certain times etc. The reaction to this may provide valuable information.

INTERVIEW CLOSING

Before we finish this interview, I ask you if you have answered my questions truthfully and have not withheld information?

- ☐ Is there anything else you would like to say?

We ask you again:

- ☐ Have you said everything you wish to say?

This ends the interview. We will now consider the information you have provided and will make an assessment. You may be interviewed again if we have any further questions or need you to clarify any of the information you have provided to us. Your case may also be referred to a health provider for their opinion. The health provider may or may not require you to attend a further interview. You will be informed of the outcome of this process by your case officer as soon as possible.

Interview finish time: _____



Australian Government
Department of Immigration and Citizenship

ASSESSMENT/ REPORT FORMAT

Physical Appearance/Demeanour

s. 47E(d)

[Redacted area for Physical Appearance/Demeanour assessment]

Comments

Assessment on Physical appearance/demeanour – is the client under 18 years of age?
(circle one)

Unlikely

Possible

Likely

**Not clear on this
criterion alone**

Behaviour

s. 47E(d)

[Redacted area for Behaviour assessment]

s. 47E(d)

Comments**Assessment on Behaviour – is the client under 18 years of age?** *(circle one)*

Unlikely

Possible

Likely

Not clear on this
criterion alone**Family History**

Record findings from family history questioning

Comments**Assessment on Family History – is the client under 18 years of age?** *(circle one)*

Unlikely

Possible

Likely

Not clear on this
criterion alone**Education**

Record findings from education history questioning

Comments**Assessment on Education – is the client under 18 years of age?** *(circle one)*

Unlikely

Possible

Likely

Not clear on this
criterion alone

Social history/Independence

Record findings from social history/independence questioning

Comments**Assessment on Social history/Independence – is the client under 18 years of age?***(circle one)***Unlikely****Possible****Likely****Not clear on this
criterion alone****CONCLUSION**

Having regard to my comments and assessments above, on balance, my overall assessment is that the client is under 18 years of age/over 18 years of age (*select one*).

Interviewing officer
Date



Australian Government

Department of Immigration and Citizenship

Date: **REQUEST FOR IHMS OPINION**
 To: IHMS

Two officers of the Department of Immigration and Citizenship (DIAC) have separately come to the view that (the client):

Name: (First Name) (Surname - in capitals)
Boat Name:
ICSE ID:

is a person over 18 years of age, despite his/her current claim to the contrary.

We note that the client originally stated their birth date as _____
 (current age would be _____) and subsequently advised that their birth date is _____
 (current age would be _____).

In coming to the view that the client is over the 18 years of age, the officers considered relevant documentation relating to the client including any record of entry interview, identity documents and/or records of discussions with DIAC staff in relation to their change of date of birth claims.

The officers also conducted an interview with the client on _____ and a further interview on _____. The client was afforded opportunities to explain the provision of differing information about their age and was asked relevant questions relating to the following broad areas of inquiry: physical appearance/demeanour; behaviour; education; and social history/independence.

Each of the interviewing officers has indicated that, on balance, their overall assessment is that the client is over 18 years of age.

Request

Your opinion is sought as to whether you agree that the client is over 18 years of age. In reaching your opinion, we anticipate that you will consider any existing clinical notes regarding this client and, if considered necessary, to meet with the client to discuss their health history (as this can be informative in assessing a person's age, both from the information given and the reactions to specific questions).

You are not requested to undertake any medical investigations, examinations or gather physical evidence.

We have indicated to the client that you may wish to meet with them. However, as noted above, it is a matter for you as to whether you consider it necessary to do so or whether you have sufficient information in the client's file to reach an opinion.

Given the sensitive nature of medical/health information, you are not required to provide the reasons for your opinion to DIAC.

Opinion

It is my view that _____ is under 18 years of age/over 18 years of age.

 (Signature)

Name:
 Date:

Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

1 Insert the name,
address and
occupation of
person making
the declaration

I, ¹

make the following declaration under the *Statutory Declarations Act 1959*:

2 Set out matter
declared to in
numbered
paragraphs

²

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of
person making
the declaration

³

4 Place
5 Day
6 Month and year

Declared at ⁴ on ⁵ of ⁶

Before me,

7 Signature of
person before
whom the
declaration is
made (see over)

⁷

8 Full name,
qualification and
address of person
before whom the
declaration is
made (in printed
letters)

⁸

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

Released by DIBP under the
Freedom of Information Act 1982

A statutory declaration under the *Statutory Declarations Act 1959* may be made before—

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)
Bailliff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Employee of the Commonwealth who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (c) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

(a) an officer; or

(b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or

(c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

(a) the Parliament of the Commonwealth; or

(b) the Parliament of a State; or

(c) a Territory legislature; or

(d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority; or

(c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution

HAND DOWN OF AGE DETERMINATION OUTCOMES – PILOT PROCESS

Pre-hand down (under 18)

- Ensure bundle of documents ready:
 - o Copy of covering letter signed by AS, CI
 - o Copy of each DIAC officer assessments
 - o Copy of IHMS provider opinion
- Ensure copy kept on file;
- Organise attendance of LWB/interpreter at meeting.

Hand down (under 18) – Case Manager

- Advise that as a result of the process, the Dept will continue to treat as a minor;
- Advise that the DOB we will use is the new DOB provided;
- Advise that the original DOB provided will still be retained in our systems as the information has been provided by the client and so may be referred to in the future eg. for the purposes of security checking;
- Advise that this issue will only be reopened if further credible evidence becomes available to the Dept;
- Reiterate to the client that the reason he went through this process is because of the change of DOB he provided and that it is important that he be truthful in his dealings with the Dept (*don't labour this point – already been raised in the interviews, but is worth mentioning again*);
- Advise client that a copy of the document bundle will be provided to IAAAS agent (if one assigned);
- Ask client if he understands and whether he has any questions;
- Provide document bundle to client.

Post-hand down (under 18)

- Provide copy of document bundle to client's IAAAS agent (if one assigned).

Pre-hand down (over 18)

- Ensure bundle of documents ready:
 - o Copy of covering letter signed by AS, CI
 - o Copy of each DIAC officer assessments
 - o Copy of IHMS provider opinion
- Ensure copy kept on file;
- Before meeting organised, consider accommodation options. Even though we will now treat them as an adult, are there any other issues/vulnerabilities relating to this client that need to be considered in selecting a location?
- Call case conference between all stakeholders (IHMS medical and mental health, Serco, DIAC) to discuss the hand-down. This is to ensure that all involved have a common understanding as to the clients' health and welfare and also to have the opportunity to talk through the actual hand-down process (where and when and who is present);
- Also at case conference, discuss immediate after hand-down process (for example, providing the client with the opportunity to make a phone call to family or their agent; pack up their belongings, say goodbye to any friends at Construction Camp) and then the management of the client at their new accommodation (which would be either Bravo compound or NWP) and ensuring that all providers have management plans in place (for example, client to be actively case managed and mental health review to be undertaken post transfer);
- Contact IAAAS agent at least 24 hours prior to hand down of outcome and attach bundle of documents (*see Attachment below for pro forma e-mail*);
- Arrange interpreter/Serco/other support for meeting. 'Other support' as agreed in case conference.

Hand down (over 18) – Case Manager

- Advise client that both DIAC officers and the IHMS doctor are of the view that the client is over 18. As a result of their views, the Department will, from today's date, treat the client as an adult. There will be a number of consequences resulting from this finding:

1. the DOB we will use is the original DOB provided (unless the client can show why another date should be recorded (obviously, any other date provided would have to place him over 18);
 2. *(if relevant)* client's access to schooling/other activities we limit to children will now cease;
 3. down the track, if you are granted a visa, this will also impact on the types of settlement services you receive and that you will not have access to priority processing of visa applications for family members;
 4. *[where accommodation location to be changed]* a more immediate impact of this finding, is that the client will be transferred to _____ on <date> or at <time>;
- Advise client that there is no formal review process for this finding but the Department will reconsider this assessment if the client can provide credible evidence (documentary or otherwise) that supports his claims regarding age;
 - Advise client that a copy of this letter and the attached information will be placed on his departmental file and may be used by other departmental officers considering his case including the officer who assesses your claims for refugee status;
 - Advise client that a copy of the document bundle has been provided to IAAAS agent *(if one assigned)* and *(if applicable)* that IAAAS agent will be contacting them on <date> or <time> to discuss the assessment;
 - Ask client if he understands and whether he has any questions;
 - Provide document bundle to client.

Post-hand down (over 18)

- Ensure departmental systems are updated to reflect DOB/new location;
- As per agreed process during case conference;
- Other action dependent on case manager's views, mental health review etc.

ATTACHMENT

Pro forma e-mail to IAAAS agent (send 24 hours prior to 'over 18' hand down)

This email is to inform you that Mr XXXX will be advised of the assessment of his age claim on xxxxxx at xxxx am/pm.

I have attached a copy of the notification letter, DIAC officer assessments and IHMS opinion. *Please note that, in the best interests of the client, the Department has an expectation that you will not discuss the content of the attached with your client prior to the hand down of the assessment to the client by the DIAC Case Manager.*

The clients will be advised at this hand-down that you will be provided with a copy of the notification letter and associated documents.

If you intend to contact your client to discuss this assessment, please advise via return email the scheduled time and day that you will be making this contact. We would like to inform the clients at the time of hand-down if and when you will be available to speak with them.

Age Determination Workshop 19 April 2011

Attendees

Name	Area
s. 22(1)(a)(ii)	Principal Advisor, CSM
	AS, Identity Branch
	Assistant Director, Identity Branch
	A/g AS, Compliance Status Resolution and
	A/g Director, Status Resolution and Removals Policy
	Director, GM Refugee and Humanitarian
	A/g GM Refugee and Humanitarian
	A/g AS Irregular Maritime Arrivals
	AS, Compliance and Case Resolution North & East
	A/g Assistant Director, Case Management Implementation & Support
	AS Immigration Intelligence
	A/g AS Legal Framework Branch
	AS, Humanitarian Branch
	Director, Humanitarian Program Decision Support
	AS Onshore Protection
	Assistant Director, Protection Support
	Assistant Director, Protection Policy
	Assistant Director, Independent Protection Assessment
	Assistant Director, Detention Policy
	Assistant Director, National Integrity Analysis Service
	Director, Client Support & Liaison
	Assistant Director, Citizenship Policy
	State Director Tasmania (interviewer pilot)
	Deputy Project Director, Principals Advisor's Unit
	Principals Advisor's Unit

Apologies –

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Age Determination Working Group – Invitee list December 2010

	Invitee	Yes	No
1.	s. 22(1)(a)(ii) A/g AS, Humanitarian	√	
2.	AS Refugee Support		X
3.	Director, Complex Needs & UHM	√	
4.	s. 22(1)(a)(ii) AS PIREU	X	replaced by s. 22(1)(a)(ii)
5.	s. 22(1)(a)(ii) AS Case Management and Review	√	
6.	s. 22(1)(a)(ii) , AS IMA		X
7.	AS Border Operations	√	
8.	Identity		
9.	AS Compliance Status Resolution	√	
10.	s. 22(1)(a)(ii) AS Onshore Protection	X	replaced by s. 22(1)(a)(ii) √
11.	s. 22(1)(a)(ii) A/g FAS Refugee Borders and Onshore Services		X
12.	s. 22(1)(a)(ii) AS Policy and Planning, Community and Detention Services	√	s. 22(1)(a)(ii)
13.	s. 22(1)(a)(ii) FAS Risk Fraud and Integrity		X
14.	s. 22(1)(a)(ii) g SESB1 Darwin IMA Boat Taskforce	√ Tele Con (TC)	
15.	s. 22(1)(a)(ii) A/g AS Boat Taskforce Management, Christmas Island	TC	X s. 22(1)(a)(ii) replace – did not attend
16.	s. 22(1)(a)(ii) Global Manager Compliance and Case Resolution S & W	TC	did not attend
17.	s. 22(1)(a)(ii) Global Manager Compliance and Case Resolution E & N	√	
18.	s. 22(1)(a)(ii) AS Document Examination	√	
19.	A/g AS Immigration Intelligence	X	
20.	s. 22(1)(a)(ii) Case Mgt Implementation and Support, Case Management and Review	√	s. 22(1)(a)(ii) √
21.	s. 22(1)(a)(ii)	√	
22.		√	
23.	s. 22(1)(a)(ii) Principal Advisor's Unit	√	
24.	s. 22(1)(a)(ii) Principal Advisor's Unit	√	
25.	Principal Advisor's Unit	√	
26.	s. 22(1)(a)(ii) Principal Advisor's Unit	√	
27.	s. 22(1)(a)(ii) , Principal Advisor's Unit	√	
28.		√	
29.	MA operations	√	
30.	s. 22(1)(a)(ii) Split Family	√	

√ - confirmed attended