

BASW Statement: National Age Assessment Board

Summary

Age assessment is an activity undertaken by social workers in local authorities when an unaccompanied young person seeking asylum claims they are under 18 and therefore a child. The purpose of age assessment is to meet the needs of the child, this includes care needs as well as health and education needs. If a person is not a child responsibility passes to another agency.

Age assessment is also used to inform decisions on asylum and immigration status - since people under 18 and people over 18 have different rights under law. Therefore, on both counts, age assessment has major consequences and requires a high degree of professional independence and objectivity.

Now that the Nationality and Borders Act 2022 is being implemented, a new agency has been established – the National Age Assessment Board (NAAB). The responsibility for age assessments will gradually move from local authorities to the NAAB.

The NAAB is part of the Home Office and is accountable to the Home Secretary. Given the rhetoric by the current Home Secretary, and her immediate predecessor, the risk is that political priorities risk compromising independent professional judgement.

The NAAB is currently seeking to recruit social workers. Given the risk of political priorities intruding on professional objectivity, BASW is discouraging our members, as well as other social workers from applying for, or taking up, age assessment roles in the NAAB.

Background

Age assessment is an activity undertaken by social workers when a young person seeking asylum claims they are under 18 and therefore a childⁱ.

Children and young people under 18 have specific needs and need specific protections. This is recognised under the 1989 Children Act (England), the Children (Scotland) Act 1995, the Children (Northern Ireland) Order 1995 and part 6 of the Social Services and Wellbeing Act (2014) Wales.

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Under ‘the paramountcy principle’ (Section 1 (1) of the 1989 Children Act) children should be treated as children first. In case law and in practice this has been interpreted that individuals who are age-assessed as under 18 (and therefore children) cannot be deported under immigration legislationⁱⁱⁱ.

The age assessments undertaken by social workers are used by immigration advisors, solicitors and barristers acting on behalf of their clients, Border Force officers and the independent Tribunal System. Consequently, age assessment has important implications for the rights of refugees, the rights of children and by extension the implementation of human rights. A proportion of age assessments will lead to the conclusion that the young person is not a child and therefore not the responsibility of local authority children’s services.

Children wrongly assessed as adults risk losing vital rights and their needs not being met. Adults wrongly assessed as children can present safeguarding risks for other children^{iv}.

Current Context

The Nationality and Borders Act 2022 made a range of changes to the current immigration system. This statement focuses on those changes to the process of age assessment.

Part of the political rhetoric was that individuals were claiming to be asylum seekers when they were not^v and claiming to be child asylum seekers as a way of exploiting the system^{vii}. The Act made a number of changes to how age assessment is undertaken which are currently being implemented. One change was to gradually move age assessments from local authorities to the National Age Assessment Board (NAAB). The NAAB is part of the Home Office and is accountable to the Home Secretary.

Now that the Act is being implemented the Home Office is scaling up the recruitment of social workers to undertake age assessments under the remit of the NAAB.

Local authorities have had budget reductions year-on-year since 2010. Further they face increasing problems in recruiting and retaining social workers. BASW acknowledges that transferring an ever-greater number of age assessments to the NAAB may well be attractive to some local authorities.

However, the NAAB is part of the Home Office. It is therefore accountable to the Home Secretary. Leaders shape the ethos of their organisations, and given the political rhetoric of both the current Home Secretary and previous Home Secretary the challenge is for managers and their staff to retain their professional objectivity.

In contrast, local authorities are not part of central Government and therefore have a degree of independence from central government. The independence of local authorities allows social workers to make professional judgements, with appropriate support and guidance that allows them to assess age – and all that that implies - with

a greater degree of objectivity free from the constraints and priorities of the Home Office.

BASW laid out its opposition to many aspects of the Nationality and Borders Act when it was a Bill going through the parliamentary stages, including the functions of the NAAB. BASW set this out in evidence to the Joint Parliamentary Committee on Human Rights in November 2021. BASW believed this risked political interference in what should be a non-political professional function.

Further, social workers do not practice in isolation. They need adequate resources, appropriate supervision and a line management structure that understands the purpose and function of social work. The organisational capacity and capability held by local authorities has taken many decades to develop and it seems unlikely a new agency can recreate this overnight. Without these appropriate structures and support a social worker's professionalism risks being severely compromised.

Additionally, since the prime purpose of age determination is to meet the needs of the child, the 'hiving off' of age assessments to the NAAB risks further fragmenting services to children.

Given this risk of political priorities intruding on professional objectivity BASW is informing social workers that currently the context for professional decision making risks being compromised by working for the NAAB and this has important consequences for human rights.

BASW is therefore discouraging our members, as well as other social workers, from applying for, or accepting these roles.

There will be a number of individuals who currently work for, or may take employment with, the NAAB. This statement should not be interpreted as a criticism of their professional objectivity. BASW also wishes to acknowledge those other officials both in the Home Office and in the Border Force who strive to maintain objectivity despite the most difficult circumstances.

BASW members who take up employment with the NAAB, and / or maintain employment with the NAAB, will continue to be able to access all the member services they are currently entitled to.

ⁱ B v London Borough of Merton [2003] EWHC 1689 (Admin)

ⁱⁱ Paragraph 39 B v London Borough of Merton [2003] EWHC 1689 (Admin)

ⁱⁱⁱ 1989 Children Act Section 1 (1)

^{iv} Ahmad Otak (R v Ahmad Otak [2012] BBC News, 2012)

^v "Some 40,000 people have arrived on the south coast this year alone. Many of them facilitated by criminal gangs, some of them actual members of criminal gangs. So, let's stop pretending that they are all refugees in distress" - <https://www.standard.co.uk/news/politics/home-secretary-suella-braverman-migrant-refugee-asylum-seeker-illegal-channel-b1037021.html>

^{vi} “I tell you who’s at fault, it’s very clear who’s at fault, it’s the people who are breaking our rules, coming here illegally, exploiting vulnerable people and trying to reduce the generosity of the British people – that’s who’s at fault,” she said. She added “people smugglers” and “people who are choosing to take an illegal and dangerous journey to come here for economic reasons” are those at fault.” - <https://inews.co.uk/news/politics/suella-braverman-asylum-seekers-manston-overcrowding-crisis-1989025>

^{vii} <https://www.standard.co.uk/news/politics/priti-patel-experts-government-suella-braverman-home-office-b1052103.html>