

Refugee and Migrant Children's Consortium

Briefing for debate on age disputes and removals to Rwanda 21 July 2022

The [Refugee and Migrant Children's Consortium](#) (RMCC), a coalition of over 60 organisations, is appalled by, and entirely opposed to, the government's plans to permanently remove people seeking asylum in the UK to Rwanda. We believe the Rwanda scheme to be inhumane and unlawful for many reasons but this short briefing focusses on the possible impact on children.

The government plans to send those with 'inadmissible' claims to Rwanda and the Home Office's [policy](#) makes clear that unaccompanied asylum seeking children are "presently treated as not suitable for third country inadmissibility action". This includes "individuals whose age is doubted but who are being treated as children under the Assessing Age instruction". **However, there are no safeguards in place for children who are treated as adults under that instruction after a short visual assessment by border officials.**

[RMCC members regularly see](#) children as young as 14 treated as adults by the Home Office and placed in immigration detention or alone in adult accommodation. The [Immigration Minister confirmed](#) that any age dispute "must be concluded, of course, before someone is relocated to Rwanda" but **there have [been a number cases](#) of children who have been detained as adults being issued with 'notices of intent' to remove them to Rwanda.**

The current age assessment process

The registration of births and the importance placed on chronological age [differs across the world](#). Many children who come to the UK on their own from countries such as Afghanistan, Sudan and Eritrea are unable to show official identity documents, such as passports or birth certificates, because they have either never had them in the first place; have had them taken from them; lost them when fleeing or had them destroyed; or been forced to travel on false documentation. Without ID it is extremely difficult to determine a child's age. It is widely recognised that physical appearance is not an accurate basis for the assessment of age. Within different ethnic and national groups there are wide variations in young people's growth and ages of puberty, and young people may look and act older than they are because of their experiences in their country of origin, or difficult journey to the UK.

Age determines the support an individual receives and how their asylum/immigration [application is processed](#). The [Home Office will come to a view](#) on age simply based on an individual's 'appearance and demeanour' – deciding either to:

* Treat them as a child but 'dispute' their age and refer them to a local authority for further assessment; OR

* Treat them as an adult (if their "physical appearance and demeanour very strongly suggest they are significantly over 18") and move them straight to adult accommodation/detention.

Much more detailed age assessments are carried out by local authority social workers as part of their duty to support children under the Children Act 1989 (or equivalent in devolved administrations). This briefing raises concerns about those who are simply treated as adults but not referred to a local authority or for further legal advice.

Between 2016-2021, there were [6,177 cases where age was disputed and subsequently resolved](#) – in 42% of the cases that were referred to a local authority, the individuals were then found to be children. Unhelpfully, the government's [statistics do not distinguish between those whose ages were disputed \(meaning they were treated as children by the Home Office and referred to the local authority for an assessment\) and those who were just treated as adults](#). Furthermore, the Home Office does not monitor how many of those determined to be adults after a visual assessment by border officials are subsequently found to be children if referred to a local authority which then carries out a proper detailed assessment of age. These children treated as adults are invisible to official statistics.

In first quarter of 2022, [428 people had their age disputed by the Home Office](#). Of the 255 who were referred to a local authority and received a further assessment, 50% were found to be children. It is not clear how many of the remaining 173 cases were referred to local authorities or simply treated as adults, or if this figure even includes ALL those treated as adult. Again, **the Home Office does not publish figures on how many individuals claiming to be children are sent straight to detention or adult accommodation, nor does it monitor what happens to them.**

Data collected separately by the Helen Bamber Foundation paints a worrying picture: figures from just 64 local authorities show that in **January to March 2022, 211 young people were referred to children's services after having been sent to adult accommodation/detention. Two thirds were found to actually be children¹ - meaning that in just three months nearly 150 children already had been placed in adult accommodation or detention and would have been at risk of removal to Rwanda.** There may be many more who have not been identified because they did not know they could seek an assessment by a local authority and challenge the Home Office decision, or have been referred but not monitored because many local authorities do not capture this data. Clearly though **the Home Office policy on deciding age is leaving children at significant risk.**

Case Study

The Refugee Council supported two young people (under 18) who were in a detention centre, having received notices of intent. Each is now in local authority care.

Child A said that when he got the notice of intent, he threatened to kill himself rather than go to Rwanda. He explained that his life was at risk in his home country, and he had high hopes that England was a good country, but this changed after he arrived. He didn't understand why they wrote his date of birth down incorrectly, and they refused to answer his questions, both then and at the detention centre. He tried to tell them he had a birth certificate and he says it made no difference.

He refused to eat in the detention centre and was very frightened. When the Refugee Council worker arrived and spoke to him in his own language, he felt it was the first time someone had listened to him. He is now much happier and going to college.

¹ Data based on local authority responses to Freedom of Information requests sent by Helen Bamber Foundation in May 2022. This data collection is ongoing. In Jan to March 2022, 64 local authorities received 211 referrals from individuals in detention/adult accommodation and found 142 (67%) of them to be children.

The Home Office has argued that “all individuals considered for relocation to Rwanda will be screened and have access to legal advice” but [oral evidence given to the Home Affairs Select Committee](#) by Asylum Aid, Refugee Council and Medical Justice has highlighted that this is not the case. Recent arrivals in the UK are being detained without any screening for vulnerabilities and “while detained, isolated, frightened and overwhelmed, they often do not understand what is happening to them”². They are told that they may be sent to Rwanda and have only seven days in which to access legal advice and respond to the very many complex, novel, legal and factual issues that arise in these cases. After that, decisions are served with only five or six working days’ notice being given of removal to Rwanda. This is an impossibly short time period for people to effectively respond and detainees frequently struggle to access the Detained Duty Advice scheme from detention, or receive poor advice. They are often entirely reliant on NGOs who go into immigration removal centres to provide support and who are often over-stretched and at capacity. **The notice of intent, the inadmissibility notice and the information pack DO NOT set out that unaccompanied children should not be sent to Rwanda.**

Testimony of a Refugee Council Worker

“As soon as Rwanda came about, we got involved with children who had been issued with a notice of intent to be sent to Rwanda. We receive a high number of referrals mainly from adult accommodation for children whose age has been disputed by the immigration officer on arrival.

[When the policy first started] we had a referral for two children in a detention centre. I visited the individuals, made a referral to local authority, and they took them into care.

They were very worried, these kids. Very, very depressed, very emotional, lack of energy, lack of sleep. They just didn’t know what would happen to them, all they were thinking about was Rwanda.

The problem with children in detention, obviously the Home Office treat them as an adult. On the same day on arrival they will be issued with a notice of intent. They have seven days to make representation... If we don’t come across a child in detention, he doesn’t have representation, and after seven days, the Home Office will issue a ticket and a date for removal.

From our experience, this policy has put people under serious risk, children detained with adults, there is no safeguarding in place to protect these children.

The Rwanda cases have been the most challenging ones since I started. The reason is the pressure of the time... we often get the referral when the seven days is almost expired. Trying to get everything done within 24 hours – that is a serious task!”

We are extremely concerned that due to the government’s flawed approach to age disputes, there is a significant risk that children will be removed to Rwanda.

It is crucial that those young people who have been determined to be over 18 by the Home Office are supported to obtain legal advice and are protected from inadmissibility procedures while they have an ongoing right to challenge the decision made on age.

² Testimony of Alison Pickup, Director, Asylum Aid, [Home Affairs Committee Evidence Session 6 July 2022](#), p.3.

As the RMCC, we fully oppose the Rwanda removals scheme AND the Home Office policy of treating those whose 'physical appearance and demeanour very strongly suggest they are significantly over 18 years of age' as adults. Nonetheless if these policies are to be continued, the below recommendations focus on additional safeguards that should be put in place.

Recommendations:

- Where a person has claimed to be a child but is being treated as an adult by the Home Office, the Home Office must not issue a 'Rwanda removal notice' until confirmation is received from their legal representative that they have not been, or will not be, referred into the care of a local authority.
- Where a person has been assessed to be an adult by a local authority or the National Age Assessment Board, the Home Office must not initiate or continue with the inadmissibility process until the timeframe for challenging the decision via judicial review or appeal has passed, or the challenge/appeal has been heard and decided
- Where a person has been issued a 'notice of intent' and is then subsequently accepted into children's services as a child, the Home Office should confirm that their asylum claim will subsequently be deemed admissible. The process that will be followed should be set out and publicly available.
- The Home Office must publish separate statistics on the number of people claiming to be children who border officials have assessed to be adults on the basis that their physical appearance and demeanour very strongly suggested that they were significantly over 18 years of age and put in place monitoring processes so it can check what happens to those individuals.