

Impact case study (REF3b)

Institution: Swansea University
Unit of Assessment: 17 - Geography, Environmental Studies and Archaeology
Title of case study: Reducing age disputes and improving the process of age assessment for separated asylum-seeking children in the UK, Europe and beyond
1. Summary of the impact

The research was undertaken in response to growing concerns about the impact of age disputes on the protection and welfare of separated asylum-seeking children. It identified considerable procedural variations in the assessment of age and an over-reliance on physical appearance and medical techniques with wide margins of error. The research has led to a significant reduction in the number of age disputes in the UK through improvements to professional standards, guidelines and training for lawyers and social workers, and has informed policy and practice relating to procedures for the assessment of age in the UK, Europe and Australia.

2. Underpinning research

The underpinning research was undertaken during 2006 by **Crawley** (then Senior Lecturer in the Geography Department, Swansea University) and published in May 2007 [R1]. The research was undertaken in collaboration with the Immigration Law Practitioners' Association (ILPA), the UK's professional association of barristers, solicitors and advocates practising in immigration, asylum and nationality law. ILPA has over 900 members and exists to promote and improve advice on immigration and asylum through training, dissemination and research. The foreword was written by Professor Sir Al Aynsley-Green, then Children's Commissioner for England.

The difficulties faced by separated asylum-seeking children in securing access to the asylum process and appropriate welfare support as a result of disputes over their age became a growing concern among lawyers, social workers and other practitioners during the early 2000s. By 2006 over half (2,279) of those claiming to be children were age disputed by the UK Border Agency (UKBA) and/or a local authority and treated as adults. Many were detained or housed in adult accommodation but subsequently found to be aged under 18 years old, raising child protection concerns.

The research examined the reasons for age disputes, policy and procedures for the assessment of age by local authorities, and the implications of age disputes for children's access to the asylum process and for their welfare and mental well-being. It included interviews and discussions with policy makers, lawyers, voluntary sector organisations and social workers, observations at the Asylum Screening Unit, discussions with 32 social workers from 14 different local authorities and a policy review. The research identified significant failings by UKBA and local authorities to follow existing policy on age disputes and considerable variation in the quality of age assessments undertaken by social workers. A lack of statutory guidance and inadequate training and support was found to be largely responsible. The research also identified an over-reliance on physical appearance and credibility as indicators of age, including the increasing use of dental and skeletal x-rays with wide margins of error. The research recommended a four-step model for policy reform to reduce the number of age disputes, improve the assessment process and establish appropriate review mechanisms. A key policy recommendation was the development of regional age assessment centres in which holistic multi-agency assessments would be undertaken by a range of suitably qualified and trained professionals.

There have been additional outputs since the underpinning research was published including journal articles and book chapters drawing on the research to make broader arguments about the conceptualisation of children's experiences in the asylum process [R2, R3 and R4]. As a result of the underpinning research **Crawley** was invited to work with Aynsley-Green and others to critique the use of medical techniques in age assessment [R5]. This work has been circulated widely in the UK, internationally, and was reviewed in the *New Scientist* (May 2012).

3. References to the research

The underpinning research was funded by a Nuffield Foundation grant of £52,000 (April 2006-Jan 2007) and subject to peer review at the grant application stage and throughout the project.

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- [R1] **Crawley, H.** (2007) *When is a Child not a Child? Asylum, Age Disputes and the Process of Age Assessment*, London: ILPA www.ilpa.org.uk/data/resources/13266/ILPA-Age-Dispute-Report.pdf (54 citations Google Scholar)
- [R2] **Crawley, H.** (2009) Between a rock and a hard place: negotiating age and identity in the UK asylum system, 89-106 in Thomas, N. (ed.) *Children, Politics and Communication: Participation at the Margins*, Bristol: Policy Press
- [R3] **Crawley, H.** (2010) 'No one gives you a chance to say what you are thinking': finding space for children's agency in the asylum system', *Area* 42(2), 162-169
- [R4] **Crawley, H.** (2011) 'Asexual, apolitical beings': the interpretation of children's identities and experiences in the UK asylum system', *Journal of Ethnic and Migration Studies* 37(8), 1171-84
- [R5] Aynsley-Green, A., Cole, T., **Crawley, H.**, Lessof, N., Boag, L. and Wallace, R. (2012) Medical, statistical, ethical and human rights considerations in the assessment of age of children and young people subject to immigrant control, *British Medical Bulletin* 102 (1), 17-42

4. Details of the impact

User interaction before and during the research process led to a series of interim impacts including: **(1) improved awareness** in the UK [C1, C8], Europe [C2, C13] and Australia [C3] of the reasons why age is difficult to assess for children from different social and cultural backgrounds; **(2) improved guidance and training** for lawyers, social workers, paediatricians and other practitioners [C5, C10, C12]; and **(3) changes to policy and improved procedures** for the assessment of age [C6]. These, in turn, led to **improved protection and welfare outcomes for asylum-seeking children** including a significant reduction in the number of children whose age is disputed in the UK. In 2006 when the research began around half (2,279) of those claiming to be children were age disputed and treated as adults. Since publication there have been **steep drops in the percentages recorded as age disputed**, beginning in 2009 with a fall of 57%. In 2012, just 328 individuals had their age disputed, a decrease of 12% compared with 2011 (374) and continuing recent year-on-year decreases [C7].

The **process** for securing impact was greatly facilitated by close collaboration with many of the end-users. The research was conducted in collaboration with ILPA [C11] and a Project Advisory Group of 18 individuals representing UKBA, voluntary sector organisations, lawyers, social workers and immigration judges. The findings were shared with end-users prior to publication at a roundtable chaired by the Children's Commissioner for England who wrote the foreword to the report in which he stated: "[W]e often hear the term 'evidence based policy making'. The quality of the research that has gone into the production of this report really does provide a sound basis for moving forward...and an excellent starting point for a properly informed discussion" [R1, ix].

The research has had considerable **reach** and is viewed "as a benchmark of excellence not only for the rigour of [its] academic approach, but also for the practical impact it has had in challenging government policies and practices at the front line" [C8]. These challenges have been secured via **lawyers, social workers and other practitioners**. ILPA and other professional bodies have used the research to define best practice and have informed **lawyers** of the findings through briefings, training to more than 100 solicitors and barristers and an annual conference at which **Crawley** was the keynote speaker [C11]. **Crawley** has also provided professional advice and expert testimony in legal cases including *M v LB Lambeth (CO/2130/2007)*, *R (A) v LB Croydon (CO/2334/2008)*, *R (M) v LB Waltham Forest (CO/11154/2007)* together with an important judicial review in Northern Ireland (2011 no. 36351/01 High Court of Justice in Northern Ireland, Queen's Bench Division).

Voluntary sector organisations have used the research to raise awareness of age disputes and develop practice guidelines. According to one user, the research "was pivotal in the development of the Age Assessment Best Practice Guidance that we created in 2012 and which was endorsed by the Scottish Government, UKBA and COSLA" [C9]. The All Wales Protection Procedures Review Group has also issued guidance drawing on the research, and age assessment training for social workers has been provided by **Crawley** through the Wales Migration Partnership. Research by the Office of the Children's Commissioner (2012) found that many social workers rely on the research findings to inform their practice [C1]. More generally there has been an increase in awareness and understanding of the issues associated with age assessment as a result of **media**

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coverage on the BBC website and in the Guardian, Daily Mail, New Scientist, Community Care and Young People Now, much of which refers explicitly to the research findings.

In March 2013, **Crawley** convened an **expert roundtable** hosted by The Honourable Justice Blake, President of the Upper Tribunal (Immigration and Asylum Chamber) and chaired by the former Children's Commissioner for England, also a leading paediatrician. The roundtable brought together senior policy makers from the Home Office and Departments of Education and Health with lawyers, children's organisations and social work managers to discuss developments and secure consensus for an improved process. According to the former Children's Commissioner, **Crawley** has "*facilitated for the first time some important dialogue between government departments of state, the judiciary, the legal profession including lawyers, and medical and social care practitioners. She has the authority and competence from her stature and knowledge to lead such disparate groups to find common ground to improve the outcomes of some of the most vulnerable children and young people in our society today*" [C8]. As a result of the roundtable the Home Office established an **Age Assessment Strategic Oversight Group** in June 2013 composed of representatives from Local Authority Children Services, the Association of Directors of Children Services, Royal College of Paediatrics and Child Health (RCPCH), Departments of Health and Education, Children's Commissioner for England and Home Office. The group's remit is to oversee improvements to existing age assessment procedures whilst a new model is developed [C11].

The **significance** of the research can be seen in terms of **policies for age assessment** in the UK, Europe and Australia as well as **social work practice** and **case law**. In 2008 UKBA established a **Working Group on Age Assessment** to review policy and practice in response to the findings of the research. Existing guidance on disputed age cases was amended to state that an asylum seeker can only be treated as an adult "*if their physical appearance / demeanour very strongly suggests that they are significantly over 18 years of age. All other applicants should be afforded the benefit of the doubt and treated as children*". Legal action brought by solicitors and barristers resulted in guidance from UKBA reminding case owners that age disputed individuals should not be detained. The research also informed a Home Office consultation process on reform to support for asylum-seeking children. Organisations engaged in the research responded to the consultation citing evidence research. As a result **the Home Office announced that it would establish specialist centres for the assessment of age** [C6], a key recommendation of the underpinning research [R1, 192-3]. This policy has yet to be implemented primarily due to funding constraints but was discussed in a House of Commons debate in May 2012. According to a Principal Policy Advisor at the Office of the Children's Commissioner, "***Crawley's** research on age assessment has had a huge influence on the subsequent policy debate around age assessment and has been enormously influential in establishing and clarifying the 'fault lines' of the debate... While a system of age assessment that works for young people remains elusive, the influence of **Crawley's** work in this area continues to be felt*" [C10].

The research has also been used to **challenge proposed policies for the use of x-rays to assess age**. In May 2012 the Home Office was forced to suspend a pilot scheme to use x-rays to assess age in light of fierce opposition from ILPA and other organisations including the RCPCH which explicitly drew upon the findings of the research [C12]. At the **European** level, ILPA used the research findings to respond to a European Asylum Support Office (EASO) questionnaire on age assessment practices (2012) being used to develop a module and handbook on age assessment in EU Member States. **Crawley** has worked with the Separated Children in Europe Programme (SCEP) and the Council of Europe to inform this process. She attended an expert workshop (Brussels 2011) to develop the SCEP *Position Paper on Age Assessment* (2012). This paper is being promoted by SCEP, a party to EASO meetings in Brussels and Malta (2012). **Crawley** has contributed to the drafting of age assessment guidelines produced by the Department of Health in **Ukraine**, attending expert workshops in **Kiev** (October and December 2012). Her paper with Aynsley-Green *et al.* (R5) was translated into Ukrainian so that it could inform the proceedings. According to the Head of Migration Co-ordination at the Council of Europe, "*[t]he document which was produced in the framework of these activities has drawn heavily on the results of **Crawley's** research, the findings and conclusions of which were extensively used in developing its structure and content. More importantly, however, the results of **Crawley's** research improved the understanding of the age assessment (especially of its ethical implications) by many governmental officials and positive impacted their overall perception of the subject*" [C13]. In **Spain** the Acting

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Ombudsman published a report entitled *Children or Adults?* [C3] which drew extensively on the underpinning research to highlight the wide margins of error in currently available age assessment techniques. In **Australia**, the Human Rights Commission conducted an inquiry into the treatment of age disputed individuals suspected of people smuggling offences. Their report, ***An Age of Uncertainty*** tabled by Parliament in July 2012, details how the Australian Government's failure to question age assessment practices and procedures, particularly the use of x-rays, resulted in some children being detained in adult prisons [C4]. The Commission referred explicitly to evidence from the underpinning research (R1) and the paper written jointly with Aynsley-Green *et al.* (R5).

Most recently the research has been referenced by the Joint Committee of Human Rights (JCHR) in its **parliamentary inquiry into Unaccompanied Migrant Children** [C2]. **Crawley** was appointed as a Specialist Adviser to the Committee in November 2012 and was able to ensure that the research findings and discussion at the expert roundtable informed the Committee's recommendations, which included the introduction of a holistic multi-agency assessment process. The Committee also recommended that the Government commission the RCPCH to develop guidelines for paediatric consultants in the assessment of age. According to a consultant paediatrician, "*many of the recommendations of the JCHR report clearly date back to [Crawley's] work*" [C10]

Finally, many of these changes in policy and practice have been cemented by **changes in case law**, particularly as it relates to social work age assessment and the use of medical (and other) evidence in the age assessment process [C12]. The underpinning research is cited in two important High Court decisions, namely *A v London Borough of Croydon, WK v Kent Borough Council* [2009] EWHC 939 (Admin), 8 May 2009 and *R (NA) v Croydon London Borough* [2009] EWHC 2357 (Admin), and in the landmark judgement *R(A) v Croydon; R(M) v Lambeth* [2009] UKSC, in which the new Supreme Court unanimously decided that age disputes must be resolved by the courts rather than local authorities.

5. Sources to corroborate the impact

- [C1] Children's Commissioner (2012) *The Fact of Age: Review of Case Law and Local Authority Practice Since the Supreme Court Judgment in R(A) v Croydon LBC* [2009], London: OCC
- [C2] Joint Committee on Human Rights (JCHR) (2013) *Human Rights of Unaccompanied Migrant Children and Young People in the UK*, London: The Stationary Office
- [C3] Office of the Defensor del Pueblo (2011) *¿Menores O Adultos? Procedimientos Para la Determinación de la Edad*, Madrid: Defensor del Pueblo
- [C4] Australian Human Rights Commission (2012) *An Age of Uncertainty*, Sydney: AHRC
- [C5] Scottish Refugee Council / Glasgow City Council (2012) *Age Assessment Practice Guidance: An Age Assessment Pathway for Social Workers in Scotland*, Glasgow
- [C6] Home Office (2008) *Better Outcomes: The Way Forward – Improving the Care of Unaccompanied Asylum Seeking Children*, London: Home Office
- [C7] Home Office (2013) *Immigration Statistics, January to March 2013*, London: Home Office

Users who have provided factual statements and can corroborate the impact:

- [C8] Children's Commissioner for England (to 2010) for verification of claims of impact on policy debates in UK, Spain and Australia and on the use of medical evidence age assessment
- [C9] Children's Policy Officer at the Scottish Refugee Council for verification of claims regarding the use of the research in the development of practice guidance
- [C10] Consultant Paediatrician, Great Ormond Street Children's Hospital / RCPCH lead on asylum seeking children for verification of claims of impact on age assessment by paediatricians
- [C11] Principal Policy Advisor (Asylum and Immigration), Office of the Children's Commissioner for verification of claims of impact on UK policy debates UK, case law and social work practice
- [C12] General Secretary, Immigration Law Practitioners' Association (ILPA) for verification of claims regarding research process and impact on lawyers, legal practice and case law
- [C13] Head of Migration Co-ordination, Council of Europe for verification of claims on impact on European policy and practice, specifically guidelines on age assessment in the Ukraine