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Lord Sharpe of Epsom  
Parliamentary Under Secretary of State

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04 March 2024

Dear Baroness Brinton,

## **SAFETY OF RWANDA (ASYLUM AND IMMIGRATION) BILL: HOUSE OF LORDS COMMITTEE STAGE**

I am writing following the debate in the Lords on day three of Committee (Official Report, 19 February 2024, column 436) regarding the age assessment provisions in the Illegal Migration Act 2023 (2023 Act) and how they affect those who may be eligible for removal to Rwanda.

### **Appropriate adults**

You asked: *"I am very sorry, but the language here is important. An appropriate adult need not necessarily be independent of the process that is assessing them. When we debated this during the passage of the Illegal Migration Bill, it was made clear to us that that person would not be independent of the process. Is that person independent or, in effect, employed by the Home Office?"*

The courts have identified relevant operating principles on what they consider to be a lawful 'Merton compliant' age assessment. While they did not establish a checklist which must all be adhered to for all age assessments in order for those assessments to be case law compliant, in the case of comprehensive age assessment an individual should be given the opportunity to have an appropriate adult present during their age assessment interview. Both the case law and the [guidance](#) on age assessments issued by the Association of Directors of Children's Services (ADCS), which is generally considered the principal guidance on conducting age assessments in the UK, specify that appropriate adults should be independent from the assessing authority, and local authorities need to make arrangements for this service provision in their area.

### **Scotland and Northern Ireland**

In Scotland, section 11 of the [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) requires that the local authority and the NAAB must recognise, and pay due regard to,

the functions of an independent child trafficking guardian assigned to them. Where a guardian has been assigned to the young person by the Scottish Guardianship Service, they should be invited to age assessment meetings with young person and where the guardian can attend, they may undertake the role of appropriate adult.

In Northern Ireland, section 21 of the [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) requires that the local authority and the NAAB recognises, and pays due regard to, the functions of an independent guardian assigned to them, including the guardian's function of accompanying the young person to meetings. Where a guardian has been assigned to the young person by the Northern Ireland Independent Guardian Service, they will undertake the role of appropriate adult.

### **National Age Assessment Board**

The National Age Assessment Board's (NAAB) [guidance](#) refers to the ADCS guidance on appropriate adults, which is linked in the above paragraph, and stipulate that individuals should be offered the opportunity to have an appropriate adult present during the age assessment interviews. Where the NAAB has been commissioned by a local authority to conduct a Merton age assessment, the local authority will be responsible for providing an appropriate adult for the young person, who is independent from the assessing authority, be always non-partisan in this role as well as having the relevant skills and training to undertake their role and will already be experienced in working with children and young people.

There are a number of safeguards as part of the age assessment process. Individuals undergoing a full Merton-compliant age assessment will be treated as a child during the assessment process and therefore the assessments are conducted in a child friendly and sensitive manner. This includes but is not limited to the provision of appropriate adults, interpreters, a suitable venue, suitable care arrangements, and other age-appropriate support during interviews and assessments. Scientific age assessments will be conducted according to the same principles – and meetings and appointments for triage and imaging will be conducted in a child friendly manner. Final plans for operationalisation are ongoing and the role of any appropriate adults and other support staff will be clearly laid out in guidance.

### **Scientific age assessments**

You also asked "*Does he know whether the AESAC's concerns about some of the science have now been answered? They had not when we discussed it on 27 November.*"

Following the debates in the House, Minister Tomlinson signed the Immigration (Age Assessments) Regulations 2024 on 9 January 2024, which came into force on 10 January 2024. Whilst the Home Office has not yet launched the process for using these methods, officials are currently working through plans for operationalisation and will release full details in due course.

These regulations specify the scientific methods of age assessment which were recommended by the Age Estimation Science Advisory Committee (AESAC). The

Committee's report contained a number of recommendations which the government has welcomed and is considering in planning for implementation of the policy. The report focusses on biological methods utilising dental and skeletal development that have already been widely tested for the assessment of age both in the immigration system and the criminal justice system internationally. Images taken of teeth and bones provide evidence of the maturational stage that an individual has achieved and can be compared to reference images of individuals whose chronological age is known.

I sought to address some of the questions previously raised in a letter to Lord Winston following the debates in November. In the event that this letter following the debate on the Regulations was not shared with you I include an extract in this letter:

"Biological age is based on the analysis of maturational stages, each of which can be imaged and linked to a range of chronological ages rather than a single definitive age. The one exception is the final stage of maturation, which represents the fully mature adult state. In this final stage the lower limit for an individual's chronological age is set by the youngest age at which that stage has been observed, but there is no upper limit as the stage applies to all individuals who have reached maturity. The chance of an individual having reached the mature stage increases with age in a way that can be visualised as a probability plot and estimated using binomial regression.

All age assessments are undertaken by comparing the maturational stage that an individual has achieved with a reference dataset of images that comprises individuals of known chronological age. This allows an age range to be given within which those maturational changes would be expected to be observed. The individuals of known age, therefore, form the reference of information that informs the evaluation of the maturational changes observed.

Extensive plotted graphs of data relating to different combinations of images are included at Figure 13 and 14 of their report which can be used to choose the most informative and lowest error rate combinations of imaging methods to be used in each age disputed case.

AESAC acknowledges that there is no infallible method for either biological or social-worker-led age assessment that will provide a perfect match to chronological age. It is key that methods used for age assessment have a known chance margin of error, that is to say, a chance of classifying genuine children as adults or vice versa. AESAC have proposed an approach that increases accuracy in multiple ways. Firstly, we know that, used in isolation, any one biological method of age assessment has a level of uncertainty in assessing chronological age. However, a triage approach is proposed in this report with the methods to be combined dependent on the sex and claimed age of the person being assessed. This involves taking images of up to three different areas of the body by x-ray and MRI method. Combining assessment of dental and skeletal development is important as it increases the accuracy of the approach, compared to assessment of these areas in isolation.

Secondly, the committee advocate a likelihood ratio approach, that is to say, a calculation comparing the social worker assigned age to the age disputed person's claimed age, using the results of the scientific age assessment methods to show which

is more likely to be correct. The committee acknowledge that there is uncertainty in the data used to predict the maturation points of the teeth and bones particularly as there is limited data on UASC population groups. However, the likelihood ratio method offers a logical and consistent summary of the evidence and permits greater confidence in the assessment of whether the claimed age is possible. The likelihood ratio is widely recognised as the appropriate way to summarise evidence in favour of two alternative hypotheses (Royal Society 2020)— in this case the hypothesis that the assigned age is correct versus the hypothesis that the claimed age is correct.

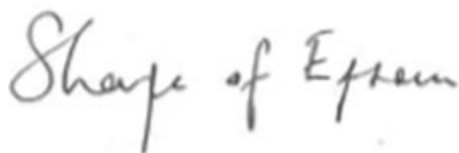
Finally, scientific age assessment should consider whether the age claimed by the unaccompanied asylum-seeking child (UASC) is possible rather than be used to answer the specific question of how old that person is or whether they are under or over 18 years of age. We are not looking to assign a specific age or age range but rather understand whether the science has more support of the claimed age of the age disputed person or the assigned age the social worker has assessed following a Merton compliant age assessment.”

I hope you agree that we are continuing to make progress on addressing the challenges in the age assessment system and I am grateful to you for raising these important issues.

I am copying this letter to Lord Murray of Blidworth, Lord Dubs, Lord Falconer of Thoroton, Baroness Hamwee, Baroness Lister of Burtersett, Lord Ponsonby of Shulbrede, Lord Green of Deddington, Lord Kerr of Kinlochard, Baroness Lawlor, Baroness Mobarik, Lord Bishop of Chelmsford, Baroness Neuberger, Baroness Chakrabarti, Lord Scriven, Lord Coaker, Lord Purvis of Tweed, Baroness Whitaker, Lord Deben, Lord Bishop of Chichester, Baroness Hale of Richmond, Lord Cashman, Baroness Kennedy of The Shaws, Lord Carlile of Berriew, and Lord Etherton.

I will also place a copy of this letter in the library of the House.

Yours sincerely,

A handwritten signature in cursive script that reads "Sharpe of Epsom".

**Lord Sharpe of Epsom**  
**Parliamentary Under Secretary of State**