



OUTER HOUSE, COURT OF SESSION

[2026] CSOH 78

P851/25

OPINION OF LORD BRAID

In the cause

THUYEN VAN NGUYEN (Assisted Person)

Petitioner

for

Judicial Review of decisions of Glasgow City Council dated 9 April 2025 and 22 May 2025
refusing to reassess the petitioner's age

Petitioner: Winter; Drummond Miller LLP, Edinburgh
Respondent: Blair; Harper Macleod LLP, Edinburgh

21 August 2026

The issue

[1] This is a petition for judicial review arising out of an age assessment carried out by a local authority. In this instance, the petitioner does not challenge the age assessment itself; rather, he seeks reduction of the respondent's refusal, on two separate occasions, to reassess his age in light of fresh information presented to it. The principal ground of challenge is that the reasons given for those refusals were inadequate, although the petitioner also mounts a (somewhat tepid) rationality challenge. Even on the petitioner's claimed age, he is over the age of 18; however, it is agreed, in light of *Ibrahimi v Glasgow City Council* [2026] CSIH 4, that the petition is not academic.

Background

[2] The petitioner is a Vietnamese asylum seeker who claims a date of birth of 10 April 2007. The Home Office have assigned him a date of birth of 10 April 2005. In February 2024, he presented to the respondent, Glasgow City Council, seeking accommodation and support as a “looked after child” in terms of section 25 (1) of the Children (Scotland) Act 1995. An age assessment was carried out by two social workers, who, relying on the petitioner’s appearance, demeanour and brief enquiry with the assistance of an interpreter, found the petitioner to be *significantly over* 18 years of age (emphasis added). That decision was communicated to the petitioner by letter dated 29 February 2024. On 18 February 2025, after some intervening correspondence, the petitioner’s solicitors wrote to the respondent, challenging the decision of 29 February 2024, and the reasoning therefor. They also requested that the respondent reconsider the age assessment, and in support of that request they forwarded copies of letters from (a) Lauren Purkiss of British Red Cross and (b) Erin Brown of Migrant Help, whom they described as independent professionals, both of whom had provided support to the petitioner and both of whom expressed the opinion that he was a child. Ms Purkiss is a casework coordinator for the Young Refugee Service (for 16–25-year-olds), with over 2 years of experience working with refugees and asylum seekers. In her letter, dated 29 January 2025, she described how she had assisted the petitioner in various ways, and cited examples of her observations of his behaviour, including that he was quite chatty but continuously ripped up paper and played with the small pieces when spoken to; had asked to take a knitted teddy bear from reception; had required help to access various services; could be quite unreliable in answering phone calls and arriving at planned appointments; and had been unable to purchase cutlery due to his age. This all led her to conclude:

“[The petitioner] presented at our service as a child aged 16 and has been consistent about his age throughout. Throughout our numerous interactions...[his] demeanour and behaviour has not given me any reason to doubt his age nor to question whether he requires appropriate support and services as an unaccompanied child.”

[3] Ms Brown, who described herself as the petitioner’s client adviser whom she had been supporting since June 2024, likewise cited, in her letter dated 22 December 2024, examples of her observations of what she described as the petitioner’s “child-like behaviour”, including that the petitioner had concerns about being accommodated with adults; had disclosed poor mental health, which he attributed in part to being surrounded by adults; had feelings of isolation, in part due to being misbelieved about his age; had attended CRISIS counselling sessions; had been anxious due to being accommodated with an older man, so much so that he had slept in a train station one night; had been unable to buy knives from a supermarket; and had been excited upon being provided with a bicycle. She expressed the opinion that “his demeanour, mannerisms and personality align with those of a minor”.

[4] It seems that Lauren Purkiss, on the petitioner’s behalf, sent an email to Laura Bouch, the respondent’s team leader of its young asylum seekers team on 3 April 2025, the full text of which has not been produced, but seemingly seeking an update on the re-assessment request. Laura Bouch replied on 9 April 2025, stating:

“No meetings took place last week with [the petitioner]. We have been asked to consider an age assessment based on the information provided by you however we do not feel that there is sufficient information within the report to consider a full age assessment at this time so we will not be undertaking this.”

[5] The petitioner’s solicitors then wrote what was headed as a pre-action protocol letter to the respondent on 13 May 2025, again stating that the decision of 29 February 2024 was to be challenged, and again asking that the decision be reconsidered. The letter largely

repeated what had been in the earlier request of 18 February 2025. On behalf of the respondent, Laura Bouch replied on 22 May 2025 stating, insofar as material:

“I have considered the information provided in your email and the supporting documents which were previously provided to us. I am quite satisfied by my team’s brief enquiry process and I am therefore not minded to carry out a full age assessment at this time.”

[6] Notwithstanding the terms of the petitioner’s solicitors’ letters of 18 February 2025 and 13 May 2025, neither the rationality of the decision of 29 February 2024, nor the sufficiency of the reasons given therein, is now challenged, correctly so in light of *Ibrahimi*, above. The challenge is directed solely to the respondent’s refusals to reconsider that decision.

Age assessments by local authorities – the legal framework

[7] Section 25 (1) of the 1995 Act provides:

“(1) A local authority shall provide accommodation for any child who, residing or having been found within their area, appears to them to require such provision because—

- (a) no-one has parental responsibility for him;
- (b) he is lost or abandoned; or
- (c) the person who has been caring for him is prevented, whether or not permanently and for whatever reason, from providing him with suitable accommodation or care.”

In order to determine whether any duty to provide accommodation existed, the respondent first required to assess the petitioner’s age (an individual being a “child” for the purposes of section 25 (1) if they are under 18, per the definition in section 93(2)(a) of the Act). (The statutory basis for such an age assessment was not explored before me, but see the analysis by Lady Ross in *QAN v South Lanarkshire Council* [2026] CSOH 49.) Where a local authority is required to carry out an age assessment, reference is frequently made to the decision of

Stanley Burnton J in *R (B) v London Borough of Merton* [2003] 4 All ER 280. At paragraph 27

he observed:

“27. Of course, there may be cases where it is very obvious that a person is under or over 18. In such cases there is normally no need for prolonged inquiry; indeed if the person is obviously a child, no inquiry at all is called for...The difficulty normally only arises in cases...where the person concerned is approaching 18 or is only a few years over 18.”

At paras 36 to 38 he continued:

“36. The assessment of age in borderline cases is a difficult matter, but it is not complex. It is not an issue which requires anything approaching a trial, and judicialisation of the process is in my judgment to be avoided. It is a matter which may be determined informally, provided safeguards of minimum standards of inquiry and of fairness are adhered to.

37. It is apparent from the foregoing that, except in clear cases, the decision-maker cannot determine age solely on the basis of the appearance of the applicant. In general, the decision-maker must seek to elicit the general background of the applicant, including his family circumstances and history, his educational background, and his activities during the previous few years. Ethnic and cultural information may also be important. If there is reason to doubt the applicant's statement as to his age, the decision-maker will have to make an assessment of his credibility, and he will have to ask questions designed to test his credibility.

38. ...Similarly, the appearance and demeanour of the applicant may justify a provisional view that he is indeed a child or an adult. In an obvious case, the appearance of the applicant alone will require him to be accepted as a child; or, conversely, justify his being determined to be an adult, in the absence of compelling evidence to the contrary.”

The approach taken in *Merton* was endorsed by an Extra Division in *Ibrahimi v Glasgow City*

Council [2026] CSIH 4 at paragraph [35], where the court also said: “It is well established

that the reasons need not be lengthy or elaborate (*Paton, Petitioner* [2019] CSOH 62, para [12];

Merton..., paragraph 48).”

[8] In *QAN*, Lady Ross emphasised, at para [49], that the process of age assessment

requires to be flexible: there is no particular procedure which a local authority requires to

follow, and the assessment may be brief or in depth, those being matters for the local authority depending on the circumstances of the case.

Submissions

Petitioner

[9] Counsel for the petitioner referred to the letters from Migrant Help and the British Red Cross in some detail, drawing the court's attention to various passages where the petitioner's support workers had identified behaviour on the part of the petitioner indicative of that of a child. Even if an adult might also have behaved in those ways, this cast doubt on the conclusion reached by the respondent's brief inquiry as to the petitioner's age, the more so where the petitioner's claimed age was only 2 years less than the age assigned to him by the Home Office. There was a tension between that and the social workers' conclusion that the petitioner was "significantly" above the age of 18: that level of gap appeared to be what Burnton J had described in *Merton* at para 27 as not being obvious (and therefore requiring more than a brief enquiry). That being so, the reader was left in real and substantial doubt as to why the letters forwarded in February 2025 were not sufficient for a fuller age assessment to be carried out. Both letters confirmed that the petitioner's demeanour and behaviour were consistent with his claimed age. The information in the letters had not been before the social workers when making the original assessment. The authors of the letters were not said to have insufficient expertise or experience to form a view on the petitioner's age, nor was their credibility or reliability questioned. It was unclear in those circumstances why that was not a basis for re-assessing and making further investigation, bearing in mind that social workers were not expert witnesses. Separately, in light of the information provided, the decision not to carry out a reassessment was irrational.

Respondent

[10] Counsel for the respondent pointed out that the original age assessment decision was accepted to be lawful. The starting point in considering the petition was therefore that the respondent's social workers had been entitled on the basis of their brief enquiries to form the view that, having regard to the petitioner's appearance and demeanour and his response to questions, he was significantly over the age of 18. That being so, the new information had not changed matters. The letters merely contained the subjective opinions of two support workers who were advocating for the petitioner, and amounted to no more than disagreement with the social workers' opinion. No objective evidence had been provided to cast doubt on the original assessment. It was appropriate for the respondent to consider the information and to conclude that it did not alter the opinion reached. The informed reader would understand that the respondent's view continued to be that the petitioner's appearance and demeanour had led to the conclusion that he was over 18. There was no real and substantial doubt as to the basis for the decision not to reconsider his age. In *Merton* at para 36 Burton J had emphasised the informal nature of the process and of the need not to "over-judicialise" it. The sort of matters desiderated by the petitioner as requiring to be stated might be appropriate for the decision of a tribunal exercising a judicial function; but were not required in the sort of decision taken by the respondent here. Further, the rationality challenge did not get off the ground. It could not be said that no reasonable decision-maker could have refused to reconsider the petitioner's age.

Decision

[11] As counsel for the respondent submitted, the starting point in considering the two refusals complained of is the original age assessment decision, which was that having regard to the petitioner's appearance and demeanour, and based upon his answers to questions, the respondent's social workers formed the view that he was "significantly" over the age of 18. The petitioner accepts that that was a decision which the respondent was entitled to make, and that the reasons given for it were adequate. That being so, the separate assignment to the petitioner, by the Home Office, of a date of birth only 2 years earlier than he was claiming, is neither here nor there, whether or not the social workers conducting their brief enquiries were aware of it, which is unclear. The petitioner does not challenge the original decision on the basis that his was not an "obvious" case and that more in the way of inquiry ought to have been undertaken at that time. The subsequent refusal to re-assess the petitioner's age, and the reasons given therefor, must be seen and understood through the prism of that earlier decision. Little is required of a decision-maker to explain why a decision is not to be revisited simply because the person affected by it, or his representatives, do not agree with it. In the present case, the fact is that no new, objectively verifiable evidence was provided in the letters. The authors of the letters, both of whom were advocating for the petitioner, were merely advancing their own observations of the petitioner's behaviour (and to an extent repeating what the petitioner had told them), and expressing their own opinion that he was the age he claimed to be. However, most, if not all, of the behaviours observed (such as the petitioner's tendency to miss appointments) were equally consistent with the respondent's view of his age as with the contrary view. Some of the behaviours were equally unusual for a child of the age the petitioner claimed to be, and a young adult. Although more might usefully have been said in the somewhat terse

responses of 9 April 2025 and 22 May 2025 – if only, because that might have nipped the present petition in the bud – the reasons given were, as a matter of law sufficient. The informed reader would understand that the reason for the refusal to reconsider the petitioner’s age was that in the view of the respondent (against the known background of the original assessment based upon the petitioner’s appearance and demeanour) insufficient information had been provided to cause that to be revisited. Where all that was being proffered in support of the request to reassess the petitioner’s age was, in effect, a contrary opinion to that of the respondent’s social workers, no more in the way of reasoning was required than that the information provided was, in the view of the respondent, insufficient, (and therefore that it fell far short of amounting to the sort of “compelling evidence” (in the words of Burnton J at para 38 of *Merton*, above) which would have been required to affect the view previously reached that the petitioner was “significantly” over 18 years of age).

[12] As regards the rationality challenge, this ground was not strenuously advanced by counsel for the petitioner, and I have no hesitation in rejecting it. While the respondent would have been entitled to reach the view that its earlier decision might be worth revisiting in light of the observations made by others of the petitioner’s appearance and demeanour, it simply cannot be said that their decision to the opposite effect was so unreasonable that no decision-maker could have reached it. As pointed out above, the aspects of the petitioner’s behaviour prayed in aid were equally consistent with his assigned age (or older) as with his claimed one.

Disposal

[13] I will repel the petitioner's fifth plea-in-law (being the only remaining live plea), sustain the respondent's plea-in-law, and refuse the petition. As agreed in that eventuality, I will find the petitioner liable in expenses, but modify his liability to nil as an assisted party.