

Challenges facing Children seeking Protection:

Not being believed!

Interviews with age disputed minors among International Protection Applicants

The Council of the European Union and the representatives of the governments of the Member States adopted the conclusions of the Promotion and Protection of the Rights of the Child to reaffirm the fact that children in migration have the right to be protected, in line with relevant provisions of EU law, including the EU Charter, and with international law on the rights of the child¹.

Safetynet Primary Care is concerned that these rights are not currently being protected for young people who cannot provide evidence that they are in fact children at the time of their initial assessment but often can later, having received identity documents by post. Instead of being given the benefit of the doubt as recommended by international guidance they can and are being 'deemed adult' by the IPO as a result of assessments that the assessors (Tusla) claim are not age assessments but rather 'assessments for eligibility for child services'². In such a context and during appeal for a reassessment of eligibility to child services, 'age disputed minors' are placed in adult accommodation without guardians. Here they are extremely vulnerable and unprotected. At least one of our patients in this situation was given no accommodation and slept on the streets. IRC report four children in a similar situation³. Our patient, on repeat assessment of eligibility for child services, was accepted by Tusla as a child and taken into care.

The process allows appeal of the initial assessment but places the young person who may be accepted as a child on appeal, back into adult emergency accommodation while they wait potentially months for the reassessment. So, while the circular argument continues around who makes the actual age determination, IPO / Tusla, what is not in dispute is the fact that young people have been deemed as not eligible for child services in a first assessment by Tusla. They are subsequently deemed eligible for child services, however, have been placed in very inappropriate adult accommodation in the interim.

The following case descriptions were summarised from interviews conducted by Safetynet Nurse Abigail Flynn with some of the 'age disputed' minors we met while providing health care to International Protection Applicants. The young people gave permission for their experiences to be

¹ Council of the European Union, Council Conclusions on the Promotion and Protection of the Rights of the Child, 3 April 2017, Doc.7775/17; Council of the European Union, Council Conclusions of the European Union and the representatives of the governments of the Member States on the protection of children in migration, 8 June 2017, Doc.10085/17.

² The relevant legislation for undertaking such (age) assessments is the International Protection Act 2015, which confers the responsibility for conducting age assessments on the Minister for Justice. Thus, according to Tusla, the conducting of such assessments is not part of its statutory function
https://asylumineurope.org/reports/country/republic-ireland/overview-main-changes-previous-report-update/#_ftn31

³ <https://www.irishrefugeecouncil.ie/now-i-live-on-the-road-new-report-on-homelessness-among-people-seeking-protection>

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shared by SafetyNet in a bid to improve the system for them and others. There were common themes emerging from the interviews including the lack of information about the process and where they were at in it, the lack of certainty that they had been age assessed, the desire to go to school, the desire to be among own age group and their fear and anxiety.

CS 1 16 yr old boy

We met A in Feb 2022 – he presented with ear pain. He said he was 16yrs and wanted more than anything to go to school. We wrote to the IPO requesting that A have his aged reassessed as the GP found his behaviour consistent with his reported age.

We caught up with A in June 2023. Just as he turned 18 his date of birth was accepted by the IPO and he was given refugee status. However, for the previous year and a half he was under age living in totally inappropriate circumstances because he was ‘deemed an adult’ by the International Protection Office (IPO).

CS 2 - 15yr old boy

We met B in March 2022. The NGO staff at his emergency accommodation were concerned about his ‘obvious young age’. Our GP noted B was very withdrawn with minimal eye contact. The NGO reported that it highlighted concerns to the IPO who assessed him, but he was sent back to adult accommodation.

SafetyNet GP saw him again in September 2022, noting that

he struggles being on his own, feels afraid in the adult accommodation centre says "everybody is bigger than me", he has no social supports, says has no friends, says there is not much to do in the hotel, does not like it there and would much rather be in accommodation with other people his age. From meeting him today, it is unequivocally clear to me that B is a vulnerable unaccompanied minor. His physical appearance is consistent with a 15 yrs old. His social engagement, behaviour, eye contact and rapport are all congruent with the level of maturity expected for a 15 yr old also.

We contacted Tusla who informed that if he is in adult accommodation he was ‘deemed an adult’ by the state.

We caught up with B in June 2023, he had been moved out of Dublin.

B described where he is living as ‘very isolated place- there is no market nearby.’ B says that he is living with adults and that he is scared of them. He says that he was ‘beaten up’ by another resident recently. B said that he went to the local school to try to enrol himself but was informed that they could not enrol as there was no guardian to pick him up from and drop him off to school.

He stated that he has nothing to do and that

‘I am depressed here, I’m tense here. I’m here for the last two months. I can’t sleep. If I stay here anymore, I am going to get crazy’.

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He said he sometimes has thoughts of taking his own life.

Safetynet staff contacted the IPO to request repeat Tusla assessment for him on an urgent basis. We are informed that he is listed for reassessment but there is no date set, and no information available on how long more B will have to wait for reassessment. B's new GP contacted Safetynet and concurs that B looks and behaves as a 15yr old and is not coping well with the grossly inappropriate accommodation without guardian.

CS3 15yr old girl

C came to the Safetynet GP with abdominal pain and a rash in September 2022.

The GP noted -

C doesn't feel safe in the adult accommodation. Finds it hard to look after herself due to her age. She reports that people are drinking in the accommodation, she finds it intimidating. C came here alone. Mood- feeling down, missing siblings and mum.

C was seen a few weeks later by another GP who concurred with the first GP on level of maturity. C is living at this time in self-catering accommodation for adult women. She reported

'I do not feel safe there – when I am in pain or sick there is no one there to help me. They [other residents] took my money – they threatened me to give my money to them.'

When asked if she had any official documentation showing her age, she said 'no', her documents were kept by the man who smuggled her into Europe (age 14).

She says she has been going to school (programme for 16-21 year olds) but goes hungry as she is struggling to feed herself. C has applied for a reassessment by Tulsa.

CS4 16 yr old boy

We met D in September 2022 who has been transferred 3 times around the country. He said

"they put me in a house with a lot of other people and they put my age as a lot older than I really am...I am only 16 but they put me as 25".

D says he doesn't feel unsafe but rather - "out of place"

"It's been 14 months and nothing is really progressing, I don't see any updates"

When asked why he didn't have a medical card he says

"they weren't letting me apply for it because I have the wrong date of birth, I tried to apply for it but they didn't let me... when you are under the age of 18 you aren't allowed to apply for medical card."

When offered a referral to SPIRASI due to the torture he experienced, he declined stating -

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'I don't really need that. That's not that important to me, the most important is an education...my biggest concern right now is education...I'm okay when it comes to mental health' 'I'm really just concerned about getting an education and trying to communicate [improve his English]."

CS5 – 16 year old boy

We met E in February 2023 in the National Transit Centre where the SafetyNet GP saw him for medical conditions. After 4 months he was moved out into accommodation with adult men.

He said that his roommates are making fun of him 'for being small' and say to him 'you shouldn't be with us' as they believe that he is a minor. He said regarding the men in his accommodation,

"sometimes they're arguing - I don't want to stay here, it could be dangerous for me as they are always arguing."

He awaits reassessment of eligibility for child services but says

"nobody tells me about the age assessment yet, they are just moving me from one place to another place, I don't know what's going on, it's making me cry."

Asked what he needs now,

"my need is that I should study, I want to study, right now I have no destiny, no one is caring for me".

"I need an answer from them [IPO]. I need to hear something - I gave them many details and they told me to wait. It's been five months that I've been suffering in this situation, I need to hear from them, whether I am deemed an adult or a child, I am just in the middle of nowhere"

CS 6 16 year old boy

We met F at the National Transit Centre where he'd been for 4 months . The GP assessment states he looks his age.'

When we contacted him in June 2023, he had been moved out of the Transit Centre where he said people would be fighting so he stayed out of their way. F says that although he says he is still living with "elderly people" the accommodation is 'safe and nice' and said 'I'm doing good now'. He does not have a medical card but applied for one and expects it to arrive soon. He is not linked in with any education services. He says

" I feel worried sometimes, I don't have friends to hang around with, everyone here is older".

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CS 7 17 yr old boy

We met G December 2022, he had just turned 17 and attended the GP with gastro intestinal problems. He was moved from Transit Centre to a hotel in Dublin at some point between December 2022 and February 2023. He has seen the doctor a total of seven times regarding the same digestive issue and is currently on a waiting list for specialist tests for this.

He is primarily concerned about his physical health and secondarily about his age determination. He says the IPO did not accept his age because he did not have documentation at the time.

“I did not have the ID card with me because I knew I would lose it. The border security were snatching everything, ID, shoes, clothes etc and we were always left in a shirt and underwear and nothing else so I did not have my ID on the way as I did not want to lose it.”

His uncle has since posted it to his solicitor, but he has not been able to get in touch with his solicitor.

He wants to go to school.

CS 8 17year old

We met H in the National Transit Centre where he arrived after 12 nights sleeping on the street. He had passed through a 3rd country where it was accepted that he was a minor. However, he was assessed as not eligible for child services when he got to Ireland.

The GP notes he was not sleeping and was experiencing anxiety. He wants to go to school.

He fled from being enlisted as child soldier and tortured. He told us his Dad was killed, and his mother found a guy travelling to Libya so she paid him to take H. He still has nightmares and difficulty in breathing.

Conclusion

The SafetyNet Team reported protection and accommodation concerns on all of the above and others who presented to us as children who were unaccompanied. The IPO have passed on our concerns to Tusla who we have also reported concerns to directly. The IPO have let us know if the young person was scheduled for a repeat eligibility assessment with Tusla. Tusla have informed us that we should not report concerns about these patients on the Child Protection reporting portal because they are ‘deemed adults’ by the State. The IPAS social worker has provided self-administered vulnerability assessments for the young person to complete and return to IPAS.

We have been told by all elements of the system that if we meet people International Protection Accommodation Services (IPAS) accommodation, they are not children but rather

‘it means that that this person has attended a Tusla eligibility assessment, and has been deemed ineligible for service from Tusla’ and therefor ‘will be treated like adults’

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However, we acknowledge that Tusla state their assessment is not an ‘age assessment’ and that they are not mandated to do this. Therefore, we assert if the young person in this situation should not be deemed an adult based on this assessment but the ‘benefit of doubt’ principle been applied.

At the very least the young person should be protected in safe accommodation until there is an age determination has been concluded .

We welcome the following provision in a new Tusla protocol⁴ to be implemented stating that the benefit of the doubt applies and that

“the person is treated as a child during the assessment process and at the final outcome stage – the person is given the benefit of the doubt throughout the process and appeal stage even if there is uncertainty about whether they are a child.”

When the young person is told they are ‘deemed an adult’ by the IPO or they’re ineligible for child services they retain their original date of birth. This has often meant that our patients are caught between services not able to access either adults or children’s. Paediatric services have been unable to see them as deemed adult and adult services are unwilling to see them with a child’s date of birth. In other case the minors reported that their application for medical cards was refused because their date of birth was less than 18 yrs.

Submitted by

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⁴ Tusla, March 2023. Procedural Guidance and Assessment Framework for the determination of eligibility for services under the Child Care Act 1991 for separated children seeking international protection