

Does age really matter?

Understanding and supporting young people who have discrepancies in their documented date of birth

Overview

This CMYI Info Sheet provides some context for workers who are supporting a young person whose documented or 'official' date of birth is different from their actual date of birth. Date of birth discrepancies are a common occurrence for young people who arrive in Australia, particularly those from refugee backgrounds.

This resource includes background information about why young people arrive in Australia with different dates of birth on their official documentation, what the implications of this are in terms of settlement and services, and some tips for supporting a young person through the process of changing their documented date of birth.

Why do young people arrive in Australia with incorrect dates of birth on their documentation?

There are many possible explanations for why a young person's documented date of birth may not reflect their chronological age:

- There are diverse ways in which age is conceptualised and birthdays acknowledged across different cultures. In some cultures, families may only know a rough date for when a child is born (e.g. during the first harvest) and many newly arrived young people will be given a nominal birthday to fulfil Australian immigration requirements (e.g. 1st January).
- In countries where there is no official documentation (e.g. birth/marriage certificates), or where documents have been lost or destroyed due to war and displacement, families may not have official records of when a child was born. Documentation that does exist may be incorrect due to the lack of reliable systems for recording births in some places.
- Non-parent guardians (e.g. uncles, aunts, siblings) may not know the age or exact date of birth of the young person they are caring for, and the young person may not be involved in the recording of

information in visa applications.

- A date of birth given at time of visa processing may be incorrect due to the enormous stress that people are under in certain contexts (fleeing homeland, arriving in overcrowded and dangerous refugee camps, etc).
- Differences in calendars in some countries can lead to discrepancies in age or administrative errors when recording date of birth.
- Families may feel that polygamous relationships are not accommodated within the Australian immigration program. They may have to leave the birth mother of a child at home and migrate with only one of the mothers in the family. Changing a young person's date of birth may be required to fit with the other dates of birth of children and the mother to make a viable family unit.
- Families may put a child's age as younger or older than they actually are due to a belief that younger/older children are more likely to get a visa or have better access to services (particularly education) once in Australia.

Does it matter if a young person's documented date of birth is different from their actual date of birth?

In Australia, age is one of the most frequently used criteria to determine access to essential services, systems and entitlements. A young person's age – and more specifically their documented date of birth – will have an influence on:

- **Education:** School year level, access to youth-specific education and training programs
- **Employment:** Tax file number, access to job network providers, JPET
- **Centrelink entitlements:** Youth allowance, family support payments, rent assistance
- **Healthcare:** Medicare card, medical care with/without consent of parent/guardian
- **Housing:** Ability to sign lease, access to youth housing services, child protection
- **Transport:** Eligibility to get driver's licence, concession cards for public transport
- **Democratic participation:** Right to vote, standing for election
- **Justice system:** Juvenile or adult justice system, different sentencing outcomes and diversion options depending on age, eligibility for Independent Person at police interviews
- **Community programs and services:** Age-specific programs, youth services, family and children's services
- **Social and recreational opportunities:** Age-based sporting competitions, over-18 entertainment venues

As well as impacting on a young person's access to services and entitlements, discrepancies between documented and actual date of birth can have more intangible ramifications for a young person, including:

- **Family relationships** can be impacted, particularly where a conscious decision was made to change a young person's age and the young person is carrying the emotional burden and frustration of having to maintain secrecy. Those who are in their early 20s can understandably find the expectations from family, schools and community to behave as a 16-year-old extremely frustrating.
- **Personal development:** Young people who arrive in Australia and find their documented date of birth does not reflect their actual age can be angry at the systems and the people they perceive as responsible for misrepresenting them. The grief and loss inherent in resettlement can be exacerbated by a sense that their identity has also been 'lost'.
- **Fitting in:** In Australia, the dominant Anglo-Celtic culture celebrates an individual's birthday with gift-giving, parties etc. Newly arrived young people may want to change their date of birth as part of negotiating their new identity in Australia and wanting to 'fit in' with their Australian-born peers (i.e. so they have a date of their own to celebrate rather than a nominal date such as the 1st January).

What process does a young person have to go through to change their date of birth?

If a young person wants to change their documented date of birth it is important that they fully understand the process involved and the possible implications of making this change.

- Discuss with the young person and their family the process involved in changing the young person's documented date of birth and **explore** the possible ramifications.
- If there are concerns that changing a young person's date of birth will have serious legal implications (for visas, Centrelink entitlements, etc), seek appropriate **legal advice**. Referral agencies are listed at the bottom of this info sheet.
- Once a young person has decided to go ahead with changing their documented date of birth, the first step is to fill in a *Request for amendment or annotation to personal records form (Form 424C)* available from the Department of Immigration and Citizenship (DIAC) - www.immi.gov.au/allforms/pdf/424c.pdf
- In filling in Form 424C, provide as much **supporting evidence** as possible and full details to explain why there is a discrepancy in date of birth. Supporting evidence can include:
 - A letter from school/teacher saying that *the behaviour* of the young person is consistent with them being older/younger.
 - A letter from a qualified doctor or support worker who can provide reasoned evidence as to why they believe the young person is within a specific age group.
- Need to supply DIAC with **original documents** (e.g. visa/residency documentation) when submitting Form 424C. As the request for amendment may take months to process, provisions may need to be made to ensure the young person has alternate proof of identity documents during this time. If approached, DIAC can return the original documents to client during the processing procedure, however this is decided on a case-by-case basis.
- If the discrepancy in date of birth is more than one year (i.e. a significant change), and the young person is under 18, DIAC may request a **bone density test** as supporting evidence. Some points to note about bone density testing:

- Because these tests have a standard deviation, and because research has been based on bone development among North American Caucasian young people, bone density testing is not always the avenue DIAC will take.
- It is pointless getting this test unless DIAC requests it, as the department will not accept results unless they are obtained through official DIAC processes.
- **Processing time** is roughly 4-6 months from when DIAC receives the completed 424C Form. If further supporting evidence is required (such as a bone density test), the processing time is likely to be much longer (6 months minimum). Processing time is dependent on factors such as: referral of documents to the DIAC Document Examination Unit, having to request information from DIAC overseas posts, and possible verification by overseas issuing authorities in relation to original documents presented to DIAC.
- DIAC routinely receive and process requests for date of birth amendments (e.g. young people wanting to change their date of birth from 1st January). However, if a requested change will **impact on a family unit** (e.g. the change will mean that siblings are officially the same age and could not have the same mother, and only one sibling is requesting an amendment to their record) then this can be a long and complex process.
- If a **request to change date is refused**, the young person has right to appeal through DIAC's internal review process, or then through the Administrative Appeals Tribunal. If this is also rejected, then the young person can request an 'annotation' be made in their file, although their official documentation will remain unchanged. (DIAC advises the client at time of primary decision that they can request DIAC to annotate records).
- If **amendment is accepted**, the young person will receive a letter from DIAC confirming their updated information. The young person can then use this letter to change their personal details with other agencies (e.g. Centrelink, school) and on other documentation (e.g. driver's licence).

Centrelink entitlements and age

- If a young person wants to change their documented date of birth, they should follow the process highlighted above **before** advising Centrelink of a discrepancy with their date of birth.
- Authorisation to amend personal records must come from DIAC to Centrelink and not the other way around. If a young person or family member raises the age issue directly with Centrelink, they run the risk of having **entitlements suspended** while the validity of their official documents (proof of identity) is being confirmed.
- If a young person or their family has benefited unfairly from

Can a young person have their visa cancelled through the process of raising the issue of date of birth?

When a young person requests an amendment to their official documentation, they are effectively changing their identity in Australia. This does not usually result in a change in visa status, unless it is subsequently found that the 'new' person is ineligible for the visa they arrived under. In extreme cases, it is possible for a young person or family member to have their visa cancelled and they may be removed from Australia

For example, if it is found through the process of confirming a young person's identity that they are not a Kosovar refugee as claimed, but are actually Albanian, they may have their visa cancelled and they maybe removed from Australia on the grounds that their claim for protection was false and they are no longer eligible under the Humanitarian Program.

having an incorrect date of birth (e.g. the young person has been receiving youth allowance even though their actual date of birth makes them ineligible), there is a risk that the recipient of the entitlement will incur a **debt**.

- Debts incurred due to having an incorrect date of birth may be able to be **negotiated**. For support and advice around Centrelink entitlements, contact Welfare Rights Unit (details below).

Organisations for referral and support

Parliamentary & Public Access (for requesting change of age)
 Department of Immigration and Citizenship (DIAC)
 GPO Box 241, MELBOURNE VIC 3001
 131 881 • FOI@immi.gov.au • www.immi.gov.au

Welfare Rights Unit (for support around Centrelink entitlements)
 155 Easey Street, COLLINGWOOD VIC 3066
 03 9416 1111 • wru@welfareinrights.org.au
www.welfareinrights.org.au/offices/Melbourne.aspx

Refugee & Immigration Legal Centre (for legal advice)
 95 Brunswick Street, FITZROY VIC 3065
 03 9483 1140 • www.rilc.org.au

Community Legal Centres (for legal advice)
 Various locations throughout Victoria
www.communitylaw.org.au

Victorian Legal Aid (for legal advice)
 Various locations throughout Victoria
 03 9269 0234 • www.legalaid.vic.gov.au

**Flow chart of
 process involved
 in young person
 amending their
 documented date
 of birth**

