

[2024] EWHC 3574 (Admin)

Case No: AC-2024-MAN-000083

IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT

Manchester Civil Justice Centre
1 Bridge Street West
Manchester M60 9DJ

Wednesday, 25 September 2024

BEFORE:

HIS HONOUR JUDGE HALLIWELL
(Sitting as a Judge of the High Court)

BETWEEN:

THE KING (ON THE APPLICATION OF MB)

Claimant

- and -

LIVERPOOL CITY COUNCIL

Defendant

MR B BEDFORD appeared on behalf of the Claimant
MR J SWIRSKY appeared on behalf of the Defendant

JUDGMENT

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1. JUDGE HALLIWELL: Before disposing of the substantive claim, I am invited to rule on an application for permission to amend the Claim itself. The substantive claim is for judicial review under Rule 54 of the Civil Procedure Rules. The Claimant contends that he is less than 18 years old. Pursuant to an order made by me on 8 May, he has been anonymised. I made this order when giving him permission to claim judicial review. I shall refer to him as the Claimant or “MB”.
2. The application is by notice dated 6 September 2024. On the face of the application notice itself, it is an application for permission to amend the claim. The claim is founded on the Claimant’s Statement of Facts and Grounds and, when the application came before on 11 September 2024, I confirmed that it would be treated as an application to amend the claim and his Statement of Facts and Grounds. However, the form and parameters of the amendments were then obscure because there were no draft amendments. For this reason, I made a direction providing for the Claimant to file and serve a draft copy of the amended statement of facts and grounds by 4.00 pm on 13 September. I then adjourned the application together with the Claimant’s substantive judicial review claim for hearing today and directed that this be rolled up and heard with the substantive claim itself.
3. Pursuant to these directions, the Claimant has submitted a draft document headed "Amended Detailed Statement of Facts and Grounds." It is on this document which he relies in support of his application for permission to amend.
4. Mr Beckett Bedford of counsel appears for the Claimant. Mr Joshua Swirsky also of counsel appears for the Defendant. I pay tribute to them for their argument.
5. It is axiomatic that the court has jurisdiction to permit the Claimant to amend his Statement of Facts and Grounds but, as the parties both recognise, he must obtain such permission if he is to do so. By paragraph 4.2 of Practice Direction 54A it is provided that the claim form must include or be accompanied by clear and concise statements of the facts relied on and the grounds for bringing the claim. If this is treated as part of his statement of case within the meaning of Rule 2.3(1), the court has jurisdiction to give permission under Rule 17 of the CPR, but, if not, it has a general jurisdiction to do under Rule 3.1(2) for the purpose of managing the case and furthering the overriding

objective. On any analysis, the principles in Rule 17 at least provide a useful analogy or cross reference to which I should have regard in dealing with the application.

6. Not only must the Claimant show that he has a real prospect of success, he must make the application promptly. Late applications are particularly frowned upon when they are made close to the trial date. An applicant will not be allowed to make the application after the end of the limitation period unless the amendment arises out of the same facts or substantially the same facts as the facts in issue.
7. However, the core features of the jurisdiction are in Rule 54 itself. The whole system - as Mr Swirsky submitted before me this morning - was originally introduced to provide safeguards for public authorities charged with a duty to make public law decisions and a mechanism for filtering the cases brought against them. Again, as Mr Swirsky submitted, the underlying purpose is to meet the requirements of efficient administration of a public authority without the authority being placed under risk of repeated challenge.
8. Applications must be made promptly and in any event no later than three months after the grounds for making the claim first arose. The Claimant is under a duty to disclose all material facts. The court's permission is required if the claim is to proceed.
9. I have heard in detail from both counsel. Their submissions have been presented with skill. Having reflected on those submissions, I shall refuse the Claimant permission to amend his case and I shall give the reasons for doing so now.
10. Firstly, in its current form - prior to amendment - the grounds for review, set out under the heading "submissions" between paragraphs 23 and 24 of the Claimant's Statement of Facts and Grounds, were founded on the contention that the Defendant had failed to undertake a reassessment following the submission of new evidence. The new evidence was contained in a letter from Ms Charlotte Schwenger dated 16 November 2023, in which Ms Schwenger expressed the view, informed in part by her experience as a social worker in "the jungle camp" at Dunkirk in Northern France, that the Claimant was less than 18 years of age. This was the case before the court when I gave

permission on 8 May and it was the case on which I gave the Claimant permission to claim judicial review.

11. The Claimant is now seeking to advance a new case in which he challenges the Defendant's original age assessment. In doing so, he relies on the provisions of the European Convention of Human Rights, including Article 8, together with case law developed in other jurisdictions, albeit, at least in part, developing principles that can be taken to apply in England and Wales. As Mr Swirsky submitted, the Claimant's new case - for which he now seeks permission to amend - has potentially wider ramifications for the Defendant and, more generally, other local authorities and, indeed, the UK as a state in connection with the mechanism for appointment of a legal representative or guardian. In these circumstances and at this stage of the proceedings, it would be inappropriate for me to give permission to the Claimant to advance such a case now. The UK state appears not to have been notified about the new case and certainly has not been joined as a party or additional party to these proceedings. No application has been made for it to be joined as a party. Moreover, the Claimant's new case is not properly tailored to the evidence before the court. In my judgment, it cannot properly be accommodated within the present proceedings. It would be contrary to the Overriding Objective – in particular, the requirements for cases to be dealt with justly and at proportionate cost saving expense and proceeding with expedition - for the proceedings to be adjourned further with additional directions to enable this to be achieved.
12. Mr Swirsky submits that the Claimant's new case is misconceived. He submits that the authorities on which the Claimant relies, particularly the judgment of the ECHR in *Darboe and Camera v Italy*, were primarily concerned with the interplay between Italian legislation and the European Union law and relate to the procedural safeguards for minors in other countries. He submits that the law in England and Wales provides for the protection for minors on a different basis. It would thus be idle and unhelpful to re-route into the law of England and Wales principles fashioned by the ECHR for a different jurisdiction in *Darboe and Camera*.
13. In response, Mr Bedford submits that the core principles identified by the ECHR have a wide application and can be taken to apply to the law governing a case such as this in

the courts of England and Wales. No doubt, if they do not have direct application, the principles or underlying jurisprudence could at least be helpful by analogy. It would be inappropriate for me to rule this out entirely on a discrete application for permission to amend. However, it is almost inevitable that, if I give permission to amend and re-open the proceedings so as to accommodate a new claim on this basis, the proceedings will have to be adjourned to provide for the admission of further evidence and the service of notice on other potential parties to these proceedings. The argument will then have to be reshaped.

14. Secondly, the application is made well out of time. The Claim is essentially based on Ms Schwenger's observations by letter dated 16 November 2023. Ms Schwenger has also provided a witness statement dated 13 February 2024. The Claim Form bears 26 February 2024 as the date of the Claim but the Claim Form was not sealed until 5 March 2024. If this was within the three-month time limit for challenging the Defendant's failure to deal with Ms Schwenger's observations, this was barely so. The Defendant's original age assessment was made as long ago as August 2023, well before proceedings were issued and upwards of a year before the Claimant's application for permission to amend. In my judgment, it is now too late to re-open the case in this way.
15. The Claimant submits that the Defendant is in breach of a continuing duty or indeed a continuing series of duties. On the hypothesis he could establish such a case, it is conceivable, the new case would not be time barred. The issue is whether he could have any real prospect of doing so. It is inherently unlikely that the Defendant's material duties would have continued to apply indefinitely. However, it would again, be contrary to the Overriding Objective, for the court to adjourn the proceedings at this stage with further directions to allow the Claimant to bring a speculative claim on this basis.
16. The Claimant and his representatives have brought these difficulties on themselves. The Application was made on the eve of the substantive hearing of the claim for judicial review. By submitting the Application without draft amendments, the Claimant, through his legal representatives, effectively derailed the substantive hearing so it is now to be dealt with today. Now that the draft amendments have been

produced, it is clear they go well beyond the original permission and cannot reasonably be accommodated if the case is to be conducted fairly at this stage.

17. Whilst the Defendant is a public body with competing demands on its limited resources, the Court must not lose sight of the Defendant's own failures, until recently, to engage properly with these proceedings. It was required to obtain relief from sanction at the last hearing. However, a point has now been reached at which it would be unfair and inappropriate to allow the Claimant to pursue the full panoply of argument now set out in the draft Amended Statement of Facts and Grounds without adjourning the case once more subject to further directions.
18. More generally, to make case management directions accommodating the draft amendments to the Claimant's case would be contrary, as I say, to the Overriding Objective, including the requirements for a case to be dealt with justly and at proportionate costs, saving expense, dealing with the case expeditiously and allotting to it an appropriate share of the court's resources.
19. For all of these reasons, the application for permission to amend is dismissed.

(After further submissions)

20. The Claimant claims judicial review of the Defendant's decision, characterised on his Claim Form, as a failure to reassess the Claimant's age in the light of supporting evidence.
21. The substance of the Claimant's case is that, having initially determined, on 7 August 2023, that the Claimant was over 18 years of age, the Defendant declined to reassess his age following the submission of new evidence in relation to his age based on the contents of a letter dated 16 November 2023 from Ms Charlotte Schwenger. The Claimant contends that he was - in fact - born on 1 February 2007, so that, even now, he is only 17 years of age. He would have been no more than 16 years of age at the time of Ms Schwenger's letter. He contends that the Defendant's failure to reassess his age in the light of the new evidence was irrational and unlawful.

22. By an order dated 9 May 2024, I gave the Claimant permission to apply for judicial review of the Defendant's decision, characterised in the way it was.
23. Earlier this morning, I ruled on the claimant's application for permission to amend his Statement of Facts and Grounds in support of his claim. Permission was refused for the reasons which I gave at the time. The overall effect is that the claim before me is limited to the Defendant's decision, in November 2023, not to undertake a further reassessment of the Claimant's age following the submission of Ms Schwenger's letter of 16 November 2023.
24. Mr Beckett Bedford of counsel continues to appear on behalf of the Claimant and Mr Joshua Swirsky of counsel continues to appear on behalf of the Defendant.
25. The Claimant has filed a witness statement in which he states that he is a national of West Sahara and entered the UK on 10 July 2023. He says that his age assessment was conducted at an interview of about an hour in the presence of two social workers. He says that there was no appropriate adult in attendance but there was an interpreter on the phone with whom, he says, he had some difficulty communicating.
26. I have been taken this afternoon to the Council's interview notes. Whilst I have taken the interview notes into consideration as a whole, I shall read out from the some of the notes only.
27. Two social workers were listed as present, Jonathan Rogers and Cassie Fitzgerald, together with the Claimant himself and the telephone interpreter, Hiba. Obviously, the interpreter's role was important. This must be taken into consideration when assessing the interview notes.
28. In the notes, there is some reference to the professional background of the two social workers. Jonathan Rogers qualified as a DipSW social worker from June 2004. For the past 10 years he has worked with unaccompanied asylum-seeking minors, completing over 500 *Merton* compliant age assessments and over 100 brief age assessment inquiries. He says he has supported individuals from numerous different nationalities and there is a record of what he has done in the notes.

29. Cassie Fitzgerald qualified as a social worker from 2017. She has worked for Liverpool City Council as a social worker within the Unaccompanied Asylum Seeking Children's team, UASC, since January 2020. Her role is then described in more detail. She has completed various training in Merton compliant age assessments, the most recent date being May 2022. She has conducted and participated in over 100 brief enquiries and age assessments having qualified as a social worker with looked after children and UASC since 2017.
30. The Claimant disclosed that he was from the Western Sahara. There was a photograph of him in the interview notes. It is stated that:

"He presented as approximately 5 foot 7 inches tall with a well developed bone structure and a slim to medium build. He has a fully formed jawline, prominent Adam's apple and facial features of an adult."

There is then the following description.

"He has visible lines on his forehead when resting and clear evidence of shaving. He appears significantly older than his claimed age. He has the physical characteristics of an older male, as well as his demeanour demonstrated that of someone who is confident, mature and extremely assertive. When asked whether he shaved facial hair, he said, "I don't understand what you mean," but then hand gestured "yes." When was the last time you shaved, he said, "last night."

31. Under the heading "age:"

"He was asked his date of birth and replied, "1 February 2007." Asked, "how do you know?" "No response," it says, resulting in the question being repeated and then he said, "from his father." "When did he tell you?" He said, "a long time ago when living in Sahara." "What was your age at the time when your father told you?" "He told me when I was a kid, I don't know." "How do you know you are 16?" "Because of my date of birth 1 February 2007." "You are only now stating you are 16 and 15 when left, you must know how you know your date of birth?" Reply, "I don't understand." "How do you know that is your date of birth?" "I don't know."

32. Later, the Claimant was asked some questions about his brother. Then, under the heading, "Journey Details" it is recorded as follows:

"He was asked what age when left and said 15. When later asked when was the first time you informed someone of your claimed age? His reply was "no one.""

There were questions about his health during which he confirmed that he wanted to return to be reunited with his family.

33. Later, there was an important "Minded too Session":

He was asked, "are you in contact with brother?" "Yes." "When was the last time?" "A week." "Does he know you want to return to Sahara?" "No, he doesn't know." "Explained the process of the meeting was to seek information in an attempt to support your claimed age. He said he didn't know. Then it was put to him, "you have no ID to confirm your name, age or date of birth," and there was no response to that. It was put to him, "you are unable to give any other age apart from 15 and 16." Reply "okay." The people you spoke to in disputing the age provided by the Home Office, did you tell them you wanted to return home? No. Why not and why tell us? They brought me here, I stay in my room." "Not the accommodation provided, the people you told the dispute age by Home Office." "I have not," is the response."

34. Later, the assessors made it clear they were minded not to accept his claimed age for the following reasons, namely physical presentation, lack of an ID, providing little or no time frames or information to support the claimed age. When this was put to the Claimant, his reply was, "I have a question, I want to change my age." They said they repeated their reasoning and suggested contacting the brother to see if he could obtain an ID to support the claimed age. The reply was "not prepared to change nationality, therefore can't obtain the ID."

35. In conclusion, both assessors agreed that the Claimant's physical appearance, facial features and demeanour were not a 16-year-old rather they were of an adult.

"We agreed with the view of your age of the immigration officer during his asylum interview by the Home Office.

We explained to [the Claimant] that he provided very little information to support his claimed age.

It was explained to [him] that we would not be accepting his age and that he would be able to challenge this assessment through his solicitor if he wished."

36. Ms Schwenger has herself made a witness statement in support of the Claimant. When she made her statement she provided services for an organisation called Care4Calais in the region of Liverpool City. She says she first met the Claimant on 22 August 2023 and met him twice a week from 22 August 2023 to 29 December 2023. She states that she has experience evaluating the mannerisms and behaviour of persons under the age of 18. Based on her more general experience and her opportunity to observe the Claimant, she thought his demeanour and behaviour was consistent with the demeanour and behaviour of children accessing the services.
37. Her letter of 16 November 2023 is exhibited. It was addressed, "to whom it may concern" and headed with reference to the claimant's name and putative date of birth. In her letter she made, amongst others, the following observations. She said:

"I met [the Claimant] on 22 August 2023 during one of our sessions at Asylum Link Merseyside where we run a drop-in for young people. Since then, [he] often attends our Saturday and Tuesday drop-in sessions. I have met him twice a week since he joined our service in August 2023. He is very sweet, polite and respectful.

He enjoys playing games with the other young people. He is helpful and kind. When he and I communicate he always shows deference to me in the way he speaks and in his body language, for example avoiding eye contact, speaking more softly with me or adults than his peers. [He] is smaller in stature. I understand that age cannot be determined in visual input alone and therefore I offer the following observations.

Around 29 September [he] broke his left hand hitting a concrete wall because he was frustrated that one of staff members in the hotel had denied him access to the kitchen without a valid explanation. He thought it was unfair and he did not understand why he was being treated that way.

So because of this incident [he] needed an operation for his hand, he was really stressed about it and asked me to come with him because he told me that I'm "the only one he can trust". He refers to me as a big sister and my presence reassures him. [He] has made a particular friend at the group a couple of months before now and since this time they are always together. He always asks if his friend can come as well when we propose him an activity.

He presented himself as a child aged 17 and he has been consistent about his age throughout the first time I exchanged with him. Throughout my numerous interactions, as detailed above, his demeanour and behaviour has been consistent with other children, his age, accessing our services. He interacts well with these children, he has formed close friendships. We have been given no reason to doubt he is the age he claims to be and that he requires appropriate support and services as an unaccompanied child. For these reasons I have concerns about him living in adult accommodation and feeling people could hurt him or could hurt himself.

If you would like further information, please do not hesitate to contact me as detailed above."

38. Although Ms Schwenger observed that the Claimant presented himself as a child aged 17, he would in fact have been only 16 at the time of these notes based on the case the Claimant currently advances.
39. Following Ms Schwenger's letter, the Claimant's solicitor sent a letter of claim dated 30 November 2023 to the Defendant in which the original age assessment and the Defendant's failure or refusal to afford the Claimant support and services for him as a child were identified as the errors for challenge. Having stated, under the heading "brief inquiry of 7 August 2023," that the age assessment on 7 August 2023 was - as the author put it - a short age assessment, it was alleged that the reasons given by the Defendant for disputing the Claimant's age "fall well short of amounting to firm grounds and reasons". Under the heading "Supporting Evidence" they referred to the requirements of a *Merton* compliant age, so called following the judgment of Burnton Stanley LJ in *R (on the application of B) v London Borough of Merton* [2003] 4 ALL ER 280. In doing so, they stated that whilst *Merton* permits the use of short form assessments in clear and obvious cases, it is incumbent on a local authority to undertake those assessments only in those cases. Having done so, they stated that, in the present case, the Defendant's rationale was based simply on their assessment of his

physical appearance, presentation and demeanour over the course of a single brief meeting.

40. In reply, the Defendant stated that the Claimant was out of time to challenge the original age assessment and, in any event, the two social workers who carried out the assessment were members of a specialise UASC team who had bespoke training in carrying out age assessments, unlike Ms Schwnger who had not had such training. They thus “stood by their assessment” and stated that “they did not consider Ms Schwenger's observations” were sufficient new evidence to revisit the assessment.
41. On the Defendant's behalf, Mr Swirsky submits that the Defendant's decision not to reopen their age assessment was consistent with the Age Assessment Guidance of the Association of Director of Children Services (“the ADCS Guidance”) and cannot reasonably be said to be irrational within a Wednesbury sense.
42. The Guidance - a statement of good practice – is as follows:

"Age assessment is a difficult process for children and young people and for social workers undertaking the assessment. It should only be undertaken when there is a significant reason to do so. However, there will be occasions when a further assessment is required. Other than on those occasions when reliable and authoritative information is available, where an assessment will not allow the assessing social workers to know the age of a child or young person and would only them to come to a balanced and reasonable conclusion based on the information to hand and on the benefit of the doubt. Other information may come to light at a later stage, for example in the form of documentation or as professionals get to know the child or young person over time which leads them to believe that the assessed age is wrong.

Where you believe that a significantly different conclusion might be reached and that the child or young person may be notably older or younger than initially assessed, then a new assessment should be undertaken. In most circumstances, you will need to talk with the young person about this new information. There may be occasions when a reassessment does not have to involve further questioning, for example when new documentation has been provided which supports the child or young person's claim and it can be relied upon, a decision in aid can be made on that basis.

Any new decision and the reasons for it must be clearly communicated with the child or young person and if they are to remain in your service then thought must be given to rebuilding trust and confidence. The Home Office must be advised of any new decision and the child or young person will need to be issued with new immigration documents which reflect their assessed age."

43. Mr Swirsky relies in particular on the following passage of the Guidance, namely:

"Where you believe that a significantly different conclusion might be reached, the child or young person may be notably older or younger than initially assessed, then a new assessment should be undertaken."

44. Mr Swirsky also referred me to *R (on the application of BM) v London Borough of Hackney [2016] EWHC 3338 (Admin)* in which Leigh-Ann Mulcahy KC observed, at [69], that, when considering whether to conduct a reassessment, the ADCS Guidance requires a local authority to consider not simply whether the new material might have a bearing on the assessment but whether a significantly different conclusion might be reached as a result. As she stated, this is a higher test and involves consideration of the degree to which the material might impact on the existing age assessment.
45. In the present case, Mr Swirsky submitted that, whilst the original age assessment is not susceptible of intrinsic challenge in these proceedings - it is not the decision under review - the decision was rational and cannot be treated as unfair. He also submitted that Ms Schwenger's letter did not satisfy the test in the ADCS guidance so as to furnish the Defendant with reason to believe that, in the event that it was to conduct another age assessment, a significantly different conclusion might be reached.
46. On balance, I am persuaded that the first of these submissions is made out. It can be seen from the interview notes that the Defendant's age assessment in August 2023 was primarily based on an assessment of the Claimant's appearance and demeanour at interview. In these circumstances, caution was exercisable and, as Mr Bedford submitted, there was no room for uncertainty. As Mr Bedford submitted, decisions such as this can only be made in clear cases. If the Defendant was in any doubt, it could have been expected to make further inquiries. Pending the outcome of such inquiries, the Claimant was entitled to the benefit of the doubt. It was also essential for the whole process to be conducted fairly. On balance, however, I am satisfied that each

of these requirements are met. The assessment was conducted by members of a specialist team with bespoke training. They were plainly confident in their assessment and they can be taken to have regarded this as a clear case. There is no substantial basis for concluding that their assessment was somehow reached in error or in some way vitiated by the process through which it was reached. There is no reason to believe that the process was conducted otherwise than fairly.

47. I was reminded by counsel of the so-called *Merton* guidance, including the requirements for the presence, during interview and assessment of an appropriate adult, and the need to afford applicants a proper opportunity to deal with points adverse to their application.
48. On the Claimant's behalf, Mr Bedford submits these requirements were not achieved. In particular, no appropriate adult was present at interview. Mr Bedford also submits that, upon receipt of Mrs Schwenger's letter, the Defendant was required to initial and undertake a new assessment. He contends that, bearing in mind the defects in the original interview process, this was all the more important.
49. In reply, Mr Swirsky submitted that, whilst the *Merton* requirements can be taken into consideration when assessing the interview process and determining whether it was conducted fairly, they do not have the status of independent rules. The *Merton* requirements are helpful indicia. However, they are not to be excised from the overall context in which the interview took place. Ultimately, the question is whether the interview process was conducted fairly and reasonably achieves the purposes to which it was directed.
50. With this in mind, I was referred to *R (on the application of HAM) v London Borough of Brent* [2022] EWHC 1924 (Admin) in which Swift J implicitly concluded, at [20]-[22], that there was no absolute requirement for age assessment interviews to be conducted in the presence of an appropriate adult. In broad terms, the governing requirements are of reasonable investigation and fair process. Once this is grasped, "whether or not fairness requires the presence of an appropriate adult...depend[s] on the circumstances of [the] case" and "the functional importance of the opportunity to have an appropriate adult present, in the case in hand". The court "is likely to focus

on whether [the] interview was conducted [so as] to permit [the applicant] properly to contribute, and properly to respond to matters going to his credibility which the local authority considers weigh against his contention to be a child”.

51. In my judgment, this can be taken to be an accurate statement of the governing principles. Once applied in the present case, there are no substantial grounds to challenge the Defendant’s age assessment in the present case following the interview in August 2023. The operative decision was made following an assessment by two experienced social workers of the Claimant’s physical appearance and overall bearing together with a careful investigation of the overall factual context. No reason has been given as to why it might have been important or, indeed, helpful in this particular case for an adult to be present or how the absence of such an adult might have affected the overall outcome of the interview. No substantial challenge has been advanced to the fairness of the interview process or the methods by which the Defendant, through its employees, set about investigating the facts and asking questions of the Claimant. During the “Minded too” session, the Claimant was advised of the Defendant’s concerns about his account and given an opportunity to respond and engage with the issues to which they gave rise. More generally, the Claimant was given a full opportunity to contribute and respond to matters going to his credibility.
52. For those reasons, I am not persuaded that the interview was unfair, whether owing to the absence of an appropriate adult or for any other reason.
53. The next question is whether, once provided with Ms Schwenger's letter, the Defendant ought to have reached the conclusion that a significantly different conclusion might be reached in relation to the Claimant's age. If so, the question then arises whether the Defendant’s omission to undertake a new assessment can be characterised as an irrational decision.
54. In my judgment, the answer to each of these questions is no. No doubt when addressing the question, the Defendant could reasonably be expected to assess the full context in which the new evidence was presented, including the basis on which the Defendant reached its own conclusions based in their August age assessment. This was a relatively short interview through two of the Defendant's social workers but they

were members of a specialist team, professionally qualified with a substantial amount of experience. Ms Schwenger was and is herself a social worker with experience helping large numbers of unaccompanied minors in France. However, her own assessment was itself based simply on her personal impression of the Claimant and, more specifically, his behaviour and demeanour. Based on her own personal perceptions, she took a different view from the Defendant's social worker but no independent evidence, documentary or otherwise, was introduced, or ever has been introduced, to corroborate her own personal view.

55. In my judgment, in the light of the Defendant's previous conclusions, Ms Schwenger's letter did not furnish it with reason to believe that a significantly different conclusion might be reached in relation to the Claimant's age in the event of re-assessment. In any event, it cannot, in my judgment, be reasonably suggested that it was irrational for the Defendant to reach such a conclusion and decline to order a new age assessment in respect of the Claimant.
56. On this basis and for these reasons, the claim is dismissed.

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