



**In the Upper Tribunal  
(Immigration and Asylum Chamber)  
Judicial Review**

In the matter of an application for Judicial Review

The King on the application of  
N (Iran)

Applicant

v.

London Borough of Southwark

Respondent

**ORDER**

**HAVING** considered all documents lodged and having heard Mr. P Haywood of counsel, instructed by Luke & Bridger Law, for the Applicant and Mr. J Swirsky of counsel, instructed by Legal Services, London Borough of Southwark, for the Respondent at a hearing held at Field House on 31 May 2023

**IT IS DECLARED THAT** the Applicant's date of birth is 21 April 2000

**CONSEQUENTLY, IT IS DECLARED:**

- (i) The Applicant was aged 21 when he entered the UK on or about 8 October 2021
- (ii) The Applicant was aged 22 when he received the outcome of the age assessment on 8 June 2022
- (iii) The Applicant is 23 as at the date of the hearing in the Upper Tribunal on 31 May 2023

**IT IS ORDERED:**

1. The application for judicial review is dismissed.
2. The order for interim relief made by Hill J dated 20 September 2022 is discharged.
3. The Applicant will pay the Respondent's costs of the judicial review proceedings and the proceedings before the Upper Tribunal not to be enforced without the permission of the Upper Tribunal.
4. There will be a detailed assessment of the Applicant's publicly funded costs.

*D O'Callaghan*  
**Upper Tribunal Judge**  
Immigration and Asylum Chamber  
**15 June 2023**

**The date on which this order was sent is given below**

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**For completion by the Upper Tribunal Immigration and Asylum Chamber**

Sent / Handed to the applicant, respondent and any interested party / the applicant's, respondent's and any interested party's solicitors on (date): *15 June 2023*

Solicitors:

Ref No.

Home Office Ref:



Case No: JR-2022-LON-001640

**IN THE UPPER TRIBUNAL**  
**(IMMIGRATION AND ASYLUM CHAMBER)**

Field House,  
Breams Buildings  
London, EC4A 1WR

15 June 2023

**Before:**  
**UPPER TRIBUNAL JUDGE O'CALLAGHAN**

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**Between:**  
**THE KING**  
**on the application of**  
**N (IRAN)**  
(Anonymity Order Made)

**Applicant**

**- and -**

**LONDON BOROUGH OF SOUTHWARK**

**Respondent**

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**Mr P Haywood, Counsel**  
(instructed by Luke and Bridger Law), for the applicant

**Mr. J Swirsky, Counsel**  
(instructed by Legal Service, London Borough of Southwark) for the  
respondent

**Hearing date: 31 May 2023**

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**J U D G M E N T**

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**Judge O'Callaghan:**

**The Tribunal confirms the anonymity order issued by the High Court on 21 September 2022 in the following terms:**

**Unless the Upper Tribunal or a Court order otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the applicant. This direction applies to, amongst others, the applicant and the respondent. Any failure to comply with this direction could give rise to contempt of court proceedings.**

**A. Introduction**

1. By an Order dated 20 September 2022, Hill J. granted the applicant permission to apply for judicial review against the respondent's decision as to his age and transferred the claim to the Upper Tribunal: (CO/3057/2022).

**B. Issues**

2. The applicant seeks a declaration that he was born on 21 April 2004 (1.2.1383, Iranian calendar).
3. The primary issue for me to resolve in these proceedings is the applicant's age, which is in dispute between the parties. In resolving this issue, I am required to identify the applicant's age as of the date the respondent concluded its age assessment, namely 8 June 2022.
4. The applicant asserts that he was aged seventeen when he arrived in the United Kingdom on 8 October 2021 and that he was eighteen when the relevant age assessment was undertaken, concluded and subsequently served. He asserts that he is presently aged nineteen.
5. The respondent assessed the applicant to be minimally aged between twenty-three and twenty-five at the date of the age assessment in June 2022.

**C. Anonymity**

6. An anonymity order is in place, and no application was made by the parties before me to set it aside. I confirm the order in relation to the applicant above.

**D. Background**

7. The applicant is a citizen of Iran and is a Kurd. He hails from a small village in the district of Sardasht, which is situated in West Azerbaijan province. He states that he lived in his village and nowhere else until he left Iran for Europe with the assistance of various agents.
8. He travelled from France to the United Kingdom by dinghy on 8 October 2021, and claimed asylum upon arrival. He maintains that he is at risk from the Iranian authorities who are aware as to his having aided members of the KDPI (Democratic Party of Iranian Kurdistan), a banned political organisation.
9. He explained at a screening interview conducted on 9 October 2021 that he had left Iran two months previously, and had travelled to the United Kingdom by foot, vehicle and sea. He did not know what countries he had passed through, though he confirmed that he had been fingerprinted somewhere on his journey.
10. The applicant's case is that he has consistently told the truth as to his date of birth, that he is uneducated and illiterate, and that he has been truthful as to his limited recollection of events occurring during his journey to the United Kingdom.

*Age assessment - 8 June 2022*

11. An age assessment was undertaken by two social workers. Two meetings were conducted with the applicant, on 30 November 2021 and 2 December 2021. A 'minded-to' session was subsequently undertaken on 24 March 2022, and the decision was issued on 8 June 2022. The applicant was provided with a Kurdish Sorani interpreter at each assessment appointment, and an appropriate adult attended.
12. The assessors concluded that the applicant was aged over eighteen, and in assessing that he was likely to be minimally aged between twenty-three and twenty-five years of age their reasoning was based upon several observations, including:
  - Differing accounts as to how often his parents informed him as to his date of birth.
  - It was considered unlikely that the applicant's uncle would know his date of birth, but not his parents
  - The applicant had not seen any personal identification documentation, to have attended school, or to know the dates of birth of his siblings, which would have provided him with a reference point as to his age.

- Limited information provided as to the applicant's life in Iran to assist in building a timeline which supports the claimed age.
  - The applicant was selective as to the information he provided.
  - More generally, the applicant provided inconsistent accounts as to the attack on the family home.
  - If the applicant's account were credible, he would know whether government officials had been to his home, or not, as his father called him about this.
  - The account provided is unlikely. The whole situation, including the applicant starting his journey to Europe, appears to have been commenced within an hour or so of the alleged visit of the authorities to the family home.
13. The assessors found the applicant's account of his life to be very limited. The confidence and maturity presented was not supported by the account of his life, suggesting he has had a lot more life experience that he had chosen not to disclose. As he travelled with fifteen or so people to the United Kingdom, it was likely some information as to the journey would have been imparted.

#### **E. The legal framework**

14. Age assessments are carried out to determine whether young people without identity documents are in fact children and so entitled to services provided by local authorities.
15. Section 17 of the Children Act 1989 establishes that local authorities have a general duty to promote the welfare of children within their areas. Although this is a general duty, when read with paragraphs 1 and 3 of Schedule 2 to the 1989 Act a local authority has a duty to assess the needs of any child in its area who appears to be a child in need. Section 17 is therefore the gateway to other local authority services, including the provision of accommodation under section 20 of the 1989 Act.
16. Thornton J observed in *AB v. Kent County Council* [2020] EWHC 109 (Admin), [2020] P.T.S.R. 746, at [18]:
- '18. The law requires a wholly different treatment of young asylum seekers depending on whether they have passed their eighteenth birthday. This is of course in itself an entirely artificial and inflexible dividing line, bearing little

relationship to human reality but it is built into the structure of not only domestic law but international law in this area and it has to be applied as best as can be (Underhill LJ in *BF (Eritrea) v Secretary of State for the Home Department* [2019] EWCA Civ 872 at §52). Thus: a number of rights and obligations under the Children Act depend upon the distinction. Local authorities are under a general duty to safeguard and promote the welfare of children within their area who are in need (section 17). This includes the provision of accommodation (s20). 'Child' means a person under the age of eighteen (s105). It is unlawful for the Secretary of State to detain asylum seeking children.'

17. The obligation to conduct an age assessment is a *Tameside* duty, i.e., an obligation for the local authority to equip itself with the necessary facts to decide whether or not to exercise its statutory functions under the 1989 Act.
18. There is no statutorily prescribed way to identify how local authorities are obliged to carry out age assessments. As confirmed by the Court of Appeal in *BF (Eritrea) v Secretary of State for the Home Department* [2019] EWCA Civ 872, at [53], the law proceeds on the basis that the most reliable means of assessing the age of a child or young person in circumstances where no documentary evidence is available is by the so-called 'Merton compliant' assessment: *R (B) v Merton London Borough Council* [2003] EWHC 1689 (Admin), [2003] 4 All ER 280 ('Merton'). Relevant requirements have been considered in several judgments, including *VS v. Home Office* [2014] EWHC 2483 QB, at [78], and were summarised by Swift J. in *R (HAM) v. London Borough of Brent* [2022] EWHC 1924 (Admin):
  - a) When it is necessary to determine whether a person is a child (i.e., under eighteen years old) for the purposes of its duties under the 1989 Act, there is no burden of proof, and so no assumption that a person is a child or an adult, at [10];
  - b) It is likely to be rare that a fair assessment would be based on physical appearance and demeanour alone, [10]. However, there will be cases where physical appearance and demeanour will suffice, [32].
  - c) An age assessment must be fair in function and substance, not merely form, [14]. What is fair will depend on the circumstances of the case.
  - d) An assessment may, depending on the facts of the case, be unfair if an appropriate adult is not present, [20].

- e) Where further enquiry as to a young person's age entails interviews, these interviews must be undertaken fairly. What is necessary for this purpose must take account of the circumstances of the person, [32].
  - f) While the question of whether a process was fair is a matter for the Tribunal, it is for the social workers to justify why such steps were taken or not taken, [34].
19. Lady Hale confirmed in *R (A) v. London Borough of Croydon* [2009] UKSC 8, [2009] 1 W.L.R. 2557, at [51], that the question whether a person is a child for the purposes of section 20 of the 1989 Act is a question of fact which must ultimately be decided by the Tribunal and the process must be one of assessment. This involves the application of judgment on a variety of factors and however difficult it may be to resolve the issue it admits of only one answer. As it is a question of fact, ultimately the question must be a matter for the Tribunal.
20. The Court of Appeal held in *R (CJ) v Cardiff County Council* [2011] EWCA Civ 1590, [2012] 2 All E.R. 836, at [21] and [23], that once a court or tribunal is invited to make a decision upon jurisdictional fact it can do no more than apply the balance of probability to the issue without resorting to the concept of discharge of a burden of proof. In this matter I am therefore required to decide whether, on a balance of probability, the applicant was a young person aged under eighteen when placed in the care of the respondent following his arrival in this country and eighteen at the date of assessment.
21. I proceed on the basis that it may well be inappropriate to expect conclusive evidence of age from the applicant in circumstances in which he has arrived unaccompanied and without original identity documents. The nature of the evaluation of evidence depends upon the particular facts of the case. In the absence of any corroborative documentary evidence as to age, the starting point is the credibility of the evidence placed before the Tribunal, as confirmed by Aikens LJ in *R (AE) v. London Borough of Croydon* [2012] EWCA Civ 547, at [23].
22. The Tribunal is not confined to choosing between the positions of the parties: *R (W) v. London Borough of Croydon* [2012] EWHC 1130, at [3].

## **F. Evidence**

23. The applicant attended the hearing and gave evidence. No other witnesses were called by either party.

24. The respondent relied upon the age assessment and an accompanying witness statement from one of the report writers, Ms. Faith Banton, dated 13 March 2023.
25. In addition to his oral evidence, the applicant relied upon two witness statements, dated 18 November 2022 and 16 March 2023.
26. The applicant explained that he had been nervous when engaging in the age assessment process, not having had such an experience before.
27. He lived with his family in their small village, containing seven houses, until he left Iran. His father is around forty-six years old, and his mother is around forty-one years old. His father is a farmer, and his mother is a housewife.
28. He has three siblings. An elder sister is around twenty years of age. A younger sister is around fourteen years old, and the youngest sibling, a brother, is aged around ten years old. The two younger siblings are respectively around four to five and eight to nine years younger than him.
29. Mr. Swirsky asked the applicant as to his informing the assessors that he could not remember his younger siblings being born. He confirmed this. He stated that he was too young at the time to remember his younger brother being born, though he was aged eight or nine at the time. He stated that he could not remember his mother being pregnant with his younger brother, nor his parents informing him that he had a younger brother at the time of his birth.
30. He has two maternal and two paternal uncles who live in the main provincial city. The maternal uncles are barbers and can read and write. The paternal uncles are mechanics. They have stable incomes.
31. The applicant confirmed that no family member was involved in politics.
32. When asked by the assessors to share some memories of his earlier life, the applicant replied, "I don't recall any memories. I just remember playing with my siblings."
33. At the hearing he explained that there was nothing in particular to remember in respect of doing things with his parents, though he recalled celebrating Ramadan and also family members coming to visit.

34. The school in the applicant's village was not open and he did not attend the nearest school, situated in a village approximately forty minutes' walk away from his home. When leaving Iran, he was uneducated and illiterate, though he could count to a limited level. Neither of his parents can read or write.
35. The applicant first commenced working when aged twelve or thirteen.
36. He did not practise his religion, though he celebrated Eid every year whilst in Iran. There was no mosque in the village. Whilst his parents observed Ramadan, he did not fast. His parents would tell him that he was too young to fast. He stated that even at the age when he left Iran, he found it difficult not to eat and drink for a long time.
37. He celebrated Nowruz, wearing traditional Kurdish clothes and gathering around a fire.
38. The applicant confirmed that no-one in his village celebrated birthdays.
39. Whilst residing in Iran, he did not understand dates, nor the months of the year. He did know the days of the week.
40. The applicant denied Mr. Swirsky's observation that he did not like to give details as to his life. When reminded that he had informed the assessors that he could not remember when he first worked but had stated at the hearing that he first commenced employment when he was aged twelve, the applicant blamed the interpreter at the assessment for being new and not interpreting accurately. He then complained that he had been given no notice of the assessment meetings.
41. Turning to the core issue in this matter, the applicant has been consistent that he knows his age and date of birth.
42. He informed the assessors at the first meeting that he had been told his date of birth by his family, clarifying that his father and his mother provided him with this information a couple of times. He could not recall the first or last time he asked his parents about this matter.
43. During the second meeting with the assessors, the applicant stated that he learned his age and date of birth when he was seventeen years old, as he had asked his mother how old he was. His mother cannot read or write, so she asked her brother, who informed her that the applicant was born on 2/2/1383 in the Iranian calendar. This information was not conveyed directly to the applicant by his

maternal uncle. The applicant stated that he only asked his mother once as to his age, and this is when he was given the information. He explained that he had no particular reason for asking, simply that he wanted to know his age.

44. In his witness statement of March 2023, the applicant confirmed that he knew his age and date of birth because he was told by his family, in particular his mother. The last time he could recall being told his age and date of birth was when he was aged seventeen and four months, which was one or two months before he left Iran. This event can be calculated to be around August 2021, with him having left Iran in September or October 2021. He could not recall the first time he was told his age, but he remembered that his mother would tell him each year, for example, "that I am 13 now, I have turned 14 now." He explained that the last time he was told both his age and date of birth, he was having a conversation with his mother. She asked his maternal uncle to confirm what his date of birth was, as her brother was educated. His uncle informed his mother, and she then told him.
45. At the hearing, the applicant stated that his mother had only ever informed him as to his date of birth on one occasion. He repeated that she only informed him once, "She told me that I was seventeen. She said that she would be asking my maternal uncle to double check my date of birth." He could not recall if she informed him that he was seventeen years and four months old. He could recall her informing him that he was seventeen. He denied that he asked his age because he was about to leave Iran. He further denied that someone had advised him to give this age when asked when he left Iran.
46. He explained that his maternal uncle knew his date of birth because he was educated. He acknowledged that this uncle had never resided in his home village but explained that he knew his date of birth because "he could read and write, and he was close family". When asked by Mr. Swirsky as to how this meant he knew his nephew's age, the applicant replied, "he may have seen my ID [shenasnameh]". The applicant confirmed that he could not remember having seen his or his parents' shenasnameh.
47. As for his age, as far as he could remember his mother only informed him two to three times, on occasions when he asked to know how old he was. He recalled being informed of his age when he was thirteen and fourteen. When reminded by Mr. Swirsky that in his witness statement he detailed being told each year, the applicant replied, "I cannot recall what she told me in the past. I vaguely remember that she told me that I was thirteen, that I turned fourteen". He explained that he wanted to know his age, to know how old he was.

48. In respect of his employment in Iran, the applicant worked with his father as a shepherd on the family land from a young age. Consequent to his father being unable to work following a back injury, his mother and siblings looked after the land, and he was required to additionally work as a kolbar, or cross-border labourer, to earn extra income for his father's medication. He undertook this task five or six times and would deliver alcohol and tobacco. The entirety of this work was completed over a ten-to-fourteen-day period. His father received the money directly for his kolbar work.
49. At the hearing the applicant confirmed that he undertook this work after he had found out his age from his maternal uncle.
50. Soon after he stopped working as a kolbar, and whilst shepherding, some people approached him to deliver a package, also referred to at the hearing as an envelope. He did not know who these people were. They asked him if he were intending to take a particular route. He said "yes", and they asked him to take the package to a drop-off location. He agreed to, as they were asking for a favour. He undertook this task twice, the second being two days after the first. Having completed the second task, he informed his father, who said that he should not have done this. His father informed him that he they were KDPI. He considers that his father made an assumption as to their background.
51. In response to Mr. Swirsky asking how the authorities found out about his actions, the applicant stated, "I do not know. Probably these men who approached me were spies or informants for the Government. Or maybe there were informers in the village."
52. The next day, whilst looking after his lambs, the applicant was contacted by phone and informed by his father that members of Ettela'at - the Ministry of Intelligence - had attacked the family home. His father further stated that he had spoken to the applicant's maternal uncle, and he knew someone who would take the applicant out of Iran. The applicant was clear, both to the age assessors and in his oral evidence, that his father had only been able to give him limited information as to events.
53. He explained that both he and his father had phones. He was not familiar with written numbers, which appeared like symbols to him, but his father's number was the only one saved on his phone. His maternal uncle had placed this number on his phone.
54. He travelled to a village, a journey of some ten minutes from where he was looking after the lambs, and where he was directed by his father to meet a friend of his maternal uncle. His father informed him as to what clothes this man would be wearing and where he

would be waiting for him in the village. Upon meeting the man, the applicant was hidden for a few hours, and then later that same day taken to the provincial capital where commenced his journey to the United Kingdom, initially by car. These events occurred on the day he received the phone call from his father.

55. He confirmed to the assessors that he left Iran in the sixth month of the Iranian calendar (August to September 2021), though he did not know the day. In his March 2023 witness statement, he states that he left Iran one or two months after his mother informed him that he was aged seventeen years and four months, so in or around September or October 2021. At the hearing he stated that he left Iran when aged seventeen years and four months, so in August to September 2021.
56. The applicant assumes that his maternal uncle paid the various agents for his journey, and that his father contributed. However, he does not know the true circumstances.
57. He further informed the assessors that he did not recall anything particular about the places he stayed in for multiple days on his journey: "I don't remember a particular thing, but we were in a jungle. All I remember were the trees and the sky. Sometimes we would stay in the car. The car wouldn't move we were just staying there."
58. The applicant explained his journey to the age assessors in general terms: "I don't know how to say how I went what was the journey. I remember just some time we go by car, some time by walking. There was a time we passed water in a plastic boat. Even the journey planner [agent] you don't know their personality. I was scared to ask them questions because even when you ask, they answer very badly. ... Some places we stayed for five days, some ten days. Some places we walk for two to three days. This was less than the cars and we couldn't see out the cars, so we did not know day or night when we were there."
59. During the journey, the group of men varied between ten and fifteen. Most, but not all, were Kurds. He would chat sometimes to the Kurds. He did not mix with the non-Kurds. Sometimes an agent would separate some members of the group and take them elsewhere. On other occasions, new members would join. There were no women or children in the group at any time.
60. The applicant informed the assessors that the journey was awful because he had not planned for it. He had no food with him, and everything he had was taken away by the agent. He would have to wait for others in the group to give him food.

61. As to his reticence in discussing his journey to the United Kingdom, the applicant stated that he did not discuss the names of the countries he travelled through with the agents because he was under instruction to stay quiet. He was not travelling using usual transportation means. The agents simply said that they would take people to a safe place, without naming the final destination.
62. He accepted that this journey was the first time he had been abroad and that everything seemed very different to him. When asked why he could remember very little about his journey, he explained at the hearing that it was a scary journey, and he did not wish to remember a difficult experience. He could not remember how he crossed the Iranian border, as he was asleep in a car. Over time he was aided by four or five agents and at times walked, other times travelled by car. He travelled for a month and fifteen days, a month and twenty days, two months before reaching the United Kingdom. He was not aware that he had crossed into Europe, did not know whether he had travelled through Turkey, had not been stopped by the police and did not know that he was travelling to the United Kingdom. He was simply informed by the agents that he would be taken to a safe country where human rights would be protected. He explained that he understood 'human rights' to mean a country where there would be no shooting.
63. As for the provision of food on the journey, the applicant explained that he ate basic food every day, but he did not know where the agents got the food. He did not know whether they went to the shops on occasion or were carrying sufficient food to feed ten to fifteen people over several days. He stated that some of the people he travelled with had secured their own food.
64. When arriving in the United Kingdom he had not been informed as to how to claim asylum, "I still don't know how to claim asylum. We were arrested by the authorities when we arrived on land." He only knew he had arrived in this country when those with whom he travelled across the Channel informed him that he had arrived in the United Kingdom.
65. He explained that he has not spoken to his family since he left Iran, because he does not want to get them into trouble. When asked by Mr. Swirsky as to why calling his father would get his family into trouble, the applicant responded, "maybe the Ettela'at are with my father when I call, or they have the phone and are waiting for me to call."
66. The applicant confirmed that he first became aware of social media when he arrived in this country.

67. By means of two witness statements dated 1 December 2022 and 16 March 2023, Mr. Martin Bridger, a partner at Luke & Bridger Solicitors, confirmed that a proportionate social media review was conducted of the applicant's mobile phone with an attendant review of all social media accounts on the phone. It was established at the hearing that the applicant was not present at the review.
68. The applicant has a Facebook account, created on 13 October 2021. The applicant accepted that this was five days after his arrival in this country. His date of birth is recorded as '2 February 2004', not '21 April 2004'. The applicant explained as to the different date of birth being recorded that the account was set up by someone at the hotel soon after his arrival in this country. He provided his date of birth in the Iranian calendar, and they tried to calculate it in the Gregorian calendar. He was informed that it would be better not to have all of his details correct on the Facebook account, for safety reasons.
69. At the time of Mr. Bridger's review, the applicant had 3,327 friends on the account. Four Facebook friends had similar surnames to the applicant. The applicant explained that he does not personally know these four males.
70. Mr. Bridger reviewed the profile page and all posts related to protests against the Iranian government, with all access to the account being undertaken whilst the applicant was in this country.
71. The applicant confirmed at the hearing that he was not political and did not wish to get involved in politics. However, he then stated that when he uses Facebook, he will post something against the Iranian regime. He accepted that when he set up his Facebook account, he could not read but stated that the photograph on a post was sufficient to identify that it was anti-Iranian authorities in nature. He accepted that he was guessing as to the substance of the post he was liking. He explained to Mr. Swirsky, "I still say that I do not want to be involved in politics. I just want to put posts against the Iranian regime ... It is not political if I post a couple of posts."
72. The applicant relies upon supporting professional observations referenced in the age assessment. His allocated social worker observed that the applicant appeared to be like any young person his age. A keyworker at his placement made a similar observation. A college tutor stated that the applicant's interaction with his peers was appropriate within the sixteen to eighteen setting.

## **G. Analysis of the evidence**

73. In evaluating the applicant's evidence, I am mindful that he may have been a minor when being interviewed. Though the assessors consider that he presented as having some educational knowledge, I proceed for the purpose of this judgment on the basis that the applicant was, as he asserts, illiterate and uneducated on arrival. I am also mindful that he asserts that he suffered abuse on one occasion when travelling to this country, having been beaten by four or five men and sustaining injuries to his back and leg. I note his assertion that he spent an extended time in unsuitable circumstances on his journey from Iran.
74. I observe the guidance provided by Picken J in *MVN v. London Borough of Greenwich* [2015] EHC Civ 1942, at [27]-[28].
75. By an undated statement of issues and agreed fact, the parties have confirmed the following agreed facts:
- i. The applicant is an Iranian national of Kurdish ethnicity.
  - ii. His first language is Kurdish Sorani.
  - iii. Following the applicant's arrival in the United Kingdom, by small boat from France, he claimed asylum and was placed in initial asylum support accommodation by the Home Office.
  - iv. After being taken into the respondent's care in October 2021, a formal age assessment was conducted by social workers on behalf of the respondent, via appointments with the applicant on 30 November 2021, 2 December 2021 and 24 March 2022, the latter being a 'minded-to meeting'.
  - v. A formal decision on the applicant's age, finding him to be an adult aged twenty-three to twenty-five, was then notified by the respondent on 8 June 2022.
  - vi. The applicant subsequently applied for judicial review, including an application for interim relief, to challenge the respondent's decision that he was not a child.
  - vii. By order dated 20 September 2022, Hill J. granted the applicant permission to apply for judicial review, and also directed that the claim be transferred to the Upper Tribunal for a fact-finding hearing to be conducted. Hill J. also granted the applicant interim relief, requiring the respondent to provide him with interim support on the putative basis that he was a 'former relevant child' under section 23C of the Children Act 1989.

76. Turning to the applicant's date of birth, there is no documentary evidence supporting his assertion that he was born on 21 April 2004. I therefore consider the evidence filed and served by the parties.
77. As detailed above, the applicant has been inconsistent as to when, and how many times, he was informed as to his date of birth:
- He was informed by his father and mother a couple of times. He could not recall the first or last time his parents informed him about his date of birth: initial meeting with assessors (30 November 2021).
  - He only asked his mother as to his date of birth when he was seventeen, and having spoken to her brother she informed him that he was born on 2/2/1383 (21 April 2004): second meeting with assessors (2 December 2021).
  - He was told his date of birth by his family on occasion, particularly his mother. The last time he could remember being told his date of birth was when he was aged seventeen years and four months: witness statement (16 March 2023).
  - His mother only told him his date of birth once, when he was aged seventeen: hearing (31 May 2023).
78. He has also been inconsistent as to when he was informed as to his age:
- He learnt his age when he was seventeen years old, having asked his mother how old he was: second meeting with assessors (2 December 2021).
  - He could not remember the first time he was told his age, but he remembered that his mother would tell him his age every year, "for example, that I am 13 now, I have turned 14 now". The last time he was told his age was when he was seventeen and his mother asked her brother as to his age: witness statement (16 March 2023).
  - He was told his age on two or three occasions, when he asked to be informed. On the last occasion his mother informed him that he was seventeen, but that she would double-check with her brother as to his date of birth: hearing (31 May 2023).
79. The applicant complained at the hearing in respect of the interpreter at the age assessment that he was 'new', 'not

experienced' and though he understood the interpreter he was 'not sure' what the interpreter said to the assessors. No detail was provided as how the applicant understood the interpreter to be new and inexperienced. No complaint as to the interpreter at the assessment meetings was made by the applicant at any stage of these proceedings until towards the conclusion of his oral evidence. Though reference is made to the presence of an interpreter in the applicant's witness statement of November 2022, I observe that no complaint is made. No challenge to the interpreter on fairness grounds was advanced by the grounds of claim, dated 22 August 2022. Mr. Haywood did not pursue the applicant's complaint in his submissions. I am satisfied, on balance, that the challenge to the accuracy of interpretation was solely advanced as an ineffective means of explaining various inconsistencies in evidence as presented over time.

80. I consider it appropriate to adopt a holistic approach, and to consider the wider evidence provided when assessing whether the inconsistencies identified above can be explained in favour of the applicant or the respondent.
81. The applicant requested that I place weight upon the supportive professional observations referenced in the age assessment decision. An allocated social worker had worked with the applicant for a little over two months, and primarily relied upon his appearance and demeanour as establishing that he 'appears to be like any young person his age'. A keyworker made observations having worked with the applicant for just over a month and again reliance was placed upon appearance and demeanour. A college tutor had known the applicant for a month and had met him in eight lessons. The applicant was identified as having appropriate interaction with his peers and being both well-behaved and respectful in class. Whilst I consider the three professionals to be reliable in expressing their recollections and observations of the applicant, none of them are capable of expressly confirming or denying the applicant's evidence as to his date of birth. Much of the reasoning provided by these professionals is based upon notoriously unreliable factors such as physical appearance and demeanour. I am satisfied that little weight can be given to evidence based upon these two factors.
82. The respondent requested that I place significant weight on the findings of the age assessment, observing that there is no challenge to the approach adopted by the assessors, but rather to their conclusions. Mr. Swirsky observed that the factual challenge arising is the reason the claim was transferred to the Upper Tribunal. As explained at the hearing, I have had the opportunity to consider evidence wider than that placed before the social workers at the date of decision. The assessors' conclusion reached is

therefore not determinative and is not a starting point but enjoys some weight in my assessment. When considering weight, I observe that the assessors relied, in part, upon the applicant having 'completed his teenage development some time ago' and his presentation being 'strongly suggestive of an adult man'. I do not consider reliance upon appearance and demeanour to be helpful in my task.

83. I have considered the totality of applicant's evidence with care. Upon careful consideration, and being mindful of the appropriate standard of proof, I find him not to be a truthful witness as to several relevant elements of his personal history.
84. I am mindful that this fact-finding judgment arises in judicial review proceedings. The applicant is under a continuing duty to make full disclosure of material facts and known impediments to his claim in these proceedings. I am satisfied that the applicant has deliberately sought to hide personal knowledge as to events to enable him to present a very limited timeline, thereby seeking to avoid proper scrutiny of his personal history in this assessment. In his thoughtful submissions, Mr. Haywood asked me to find the applicant as lacking guile. I find the contrary. I am satisfied, on balance, that the applicant had taken advice from others, and seeks to construct a narrative, both as to his age and as to actions in this country, to aid his claim for international protection and to continue to secure the benefits of local authority resources under the 1989 Act.
85. On the applicant's own evidence, he resided with his family in their village for seventeen years but was unwilling to provide anything beyond bland generalisations as to his life both with his family and in the village generally. I reject as entirely unbelievable that he was not aware of the birth of his brother when he was aged eight or nine, or that he was not aware that his mother was pregnant with his younger brother. I do not accept that he was unaware of the birth of his younger sister when he was aged four or five, being mindful not only of the significance of the arrival of a sibling, but also that he was residing in a small village of seven houses, where an addition would be expected to be noted by all inhabitants. I am satisfied that the applicant's failure to provide a truthful history as to his life at home is deliberate.
86. I reject the applicant's contention that within less than a day: his father telephoned him whilst he was shepherding and directed him to travel to an identified village to meet an identified man; his father identified the clothes the man would be wearing and where he would be standing in the village; this man had arranged with his uncle to aid him leave the country, his uncle living elsewhere in the province; this man hid him for a period of time, then took him to a

large provincial city, handed him over to someone else who drove him out of Iran. The likelihood of such events occurring so expeditiously is, on balance, implausible and accompanied by the applicant being notably vague as to the detail of events. I accept as being much more likely than not the respondent's contention that the applicant's actual departure from Iran was pre-planned and had been organised over time. I find, on balance, that it was a decision made between the wider family, some of whom the applicant accepts were responsible for paying various agents.

87. In rejecting the applicant's evidence on this issue, I observe a further inconsistency as to his leaving Iran. In his second witness statement, he states that he was informed on the last occasion as to his date of birth when he was aged seventeen and four months old, and he subsequently left Iran a month or two later. However, at the hearing he confirmed that he left Iran when aged seventeen and four months.
88. I find that the applicant has deliberately sought to minimise the information he has provided in respect of his journey to the United Kingdom. He has said as little as possible, to reduce any possible examination of the relevant timeline. He is very vague as to how he left Iran, despite on his evidence it being a significant step that he had not imagined taking place that very morning. I am satisfied to the requisite standard that the Iranian authorities would have checked those sitting in a car when crossing a border, and that a tarpaulin being placed over windows would not be sufficient to prevent such identity checks being undertaken.
89. I am further satisfied that the applicant has been deliberately vague as to the route of his journey. Whilst he may not be able to read various alphabets of the countries he travelled through, I am satisfied that on his first journey outside the border region he grew up in, he would have noted significant differences in the countryside, roads and food of Europe. He was unwilling to provide anything other than very general information as to how he was fed on his journey. His purported lack of curiosity as to the areas he was travelling through and how he was fed over a period of a month-and-a-half to two months is striking and lacks credibility. I do not accept that an agent would carry sufficient food for between ten to fifteen people over several days or weeks, whilst walking through countryside and 'jungle'. The decision not to provide true details as to his journey is, I find, part of a concerted effort to hide the true circumstances as to how he travelled to this country, to establish a false narrative that he left Iran expeditiously as a minor and arrived in this country as a minor.
90. I note a further discrepancy in his evidence. When interviewed by the Home Office on 9 October 2021, the day after his arrival, the

applicant confirmed that he was fingerprinted on his journey to this country, though he did not know where. I am satisfied that this is an admission that he was stopped by national police on his journey. At the hearing he denied having ever been stopped by police before reaching this country. I find that the applicant was not truthful at the hearing. His response on the day after his arrival is, on balance, much more likely to be a truthful statement. His answer at the hearing is another attempt to hide the true circumstances of his journey to this country.

91. I am satisfied that the applicant was aware of at least some of the countries he was travelling through, and a decision was made very early on that his intended destination was the United Kingdom. I do not accept as credible his evidence that he was only aware that he had travelled to this country upon being so informed by travelling companions after crossing the Channel. This would require those he travelled with, including agents, to be silent as to why the group were planning to cross a significant expanse of water when present in France. On his own evidence before me, he detailed not having slept for two nights when preparing to undertake this part of his journey, yet asked no questions as to where he was travelling to. I find, on balance, that before stepping into the dinghy, he was aware that he was travelling to the United Kingdom and that was his final, chosen, destination.
92. I do not accept that he did not know how to claim asylum, or, as explained at the hearing, that he still does not know how to claim asylum. Without having requested asylum, I am satisfied that he would not have been placed by the Home Office into the domestic asylum system.
93. I am satisfied to the requisite standard that the applicant was advised by agents whilst travelling to this country as to the benefits of asserting that he was a minor as one of several steps that could be taken to aid his claim for international protection.
94. The applicant provided no cogent reason as to why he created a Facebook account five days after his arrival, when on his evidence he could neither read nor write. Additionally, despite professing to be non-political, and confirming that no family member was politically active, he actively liked and created anti-Iranian regime posts, despite not knowing their content beyond his making an assumption as to their content based upon the accompanying photographs. He could provide no cogent reasons for undertaking such acts. I find that he was acting upon advice and instruction solely to aid his international protection claim.
95. I find in the applicant's favour that he was truthful that his date of birth was erroneously entered onto the Facebook account because

someone miscalculated the transposition of the date from the Iranian to the Gregorian calendar. The complexity of calculation can readily lead to error. However, I find that he was not truthful in his subsequent assertion that he was advised to provide certain false details for 'his safety'. The engagement with the social media account is simply a means of aiding his international protection claim, and he is not fearful of risks flowing from such engagement. On balance, I find that the latter assertion was simply a weak attempt to further explain an inconsistency.

96. I also find in the applicant's favour that he does not personally know, or is related to, the four men identified as having similar surnames on the friend's page of his Facebook account. Being mindful of the relevant standard of proof, there is nothing to connect the applicant with these men beyond their surnames. There are no direct messages between these men and the applicant, there are no express references to their being relatives and, though of less strength, no reference to them hailing from the same rural area of Iran.
97. Returning to the core issue in this matter, the applicant's date of birth, I again observe the several inconsistencies in his evidence, which were not coherently addressed in his evidence at the hearing.
98. He has been inconsistent over time as to when he was informed as to his date of birth. On occasion he has stated that both his mother and father informed him. On other occasions he has detailed that only his mother informed him, with or without the aid of her brother. He has stated that he was informed as to his date of birth on a couple of occasions, or alternatively, informed once when aged seventeen, or seventeen and four months, when he asked his mother for his date of birth.
99. Additionally, he confirmed that his mother informed him as to his age for the first time when he was aged seventeen, or she informed him as to his age every year, or alternatively she informed him on two or three occasions, the last time being when he was aged seventeen and she double-checked his date of birth with her brother.
100. I am satisfied that the applicant's unreliability on the issues of his age and date of birth, accompanied by his clear efforts to hide relevant elements of his personal history from the respondent and this Tribunal, means that on balance his evidence as to his age and date of birth cannot be accepted. He is not credible as to how and when he became aware of his age and date of birth. I am satisfied that he has deliberately sought to present a false date of birth and age to aid his asylum claim, and to secure the benefits of local

authority assistance. To secure the latter, he deliberately identified himself as a minor, but has proven unable to consistently detail the circumstances in which he came to know his age.

101. I am satisfied that the applicant was an adult when he arrived in this country and knew his true date of birth. I find that the applicant was not being truthful when he denied seeing his shenasnameh or those of his parents. The shenasnameh is used as a proof of identity and has for many years been the most important identity document for Iranian citizens. I find that his family registered his birth as such step is mandatory under Iranian law. I take judicial note that hospitals register births, and that births can be registered at health centres, vaccination centres and mother-child clinics in rural areas. The first shenasnameh is issued on the day of registration and a child's name is entered into their parents' shenasnameh. It is updated when a child reaches the age of fifteen. I am satisfied that the applicant implicitly accepted at the hearing that he possessed a shenasnameh - "[my uncle] may have seen my shenasnameh."
102. I therefore find, on balance, that all members of the applicant's close family had been issued with their shenasnameh and the applicant was not being truthful when asserting that he had never seen his. The assertion that his mother had to ask his uncle as to his date of birth, simply because he could read, is no more than an ineffective means utilised by the applicant to avoid referencing that his true date of birth is well known to him and his family, being detailed on his shenasnameh. I am satisfied that despite a lack of education, he understood what the date on the document meant in respect of his age.
103. I further find that the applicant is not truthful when he says that he has not been in contact with his family since he left home in 2021. They were a close family when he left. On balance, I conclude that the applicant's explanation that contacting his father at the present time would cause problems because the intelligence services may have his father's phone or be tracking phone calls, despite his father having phoned him after the intelligence services arrived at the family home, is not credible. I am satisfied that his assertion is simply a means of closing down any requests for his family to provide his genuine identity documents to the authorities in this country.
104. I note the assessors' opinion that the applicant was aged between twenty-three and twenty-five at the date of decision on 8 June 2022. Though having concluded that the applicant was an adult when he entered the United Kingdom, I find, on balance, that he was more likely than not to be younger than the age identified by the assessors, bearing in mind that his interaction with peers in

college and at his accommodation did not suggest that he was considerably older than them. I find that he was aged twenty-one when he arrived in this country, and twenty-two at the date of his assessment. I find that he was born on 21 April 2000.

**H. Summary of the decision**

105. It is declared that the applicant’s date of birth is **21 April 2000**.

106. Consequent to the declaration, I find as fact:

- i. The applicant was **aged 21** when he entered the United Kingdom on or around 8 October 2021
- ii. The applicant was **aged 22** on 8 June 2022, the date the respondent served the age assessment upon him.
- iii. The applicant was **aged 23** at the fact-finding hearing of his application for judicial review before the Upper Tribunal.

D O’Callaghan  
**Upper Tribunal Judge**  
Immigration and Asylum Chamber

**15 June 2023**

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