



**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
MR

Applicant

versus

London Borough of Newham

Respondent

NOTIFICATION of the Judge's decision

HAVING considered heard from Ms A. Benfield of counsel, instructed by Osbornes Law for the Applicant and Ms C. Rowlands of counsel, instructed by the London Borough of Newham at a hearing held on 15 and 16 August 2023

IT IS DECLARED THAT:

(1) The Applicant's date of birth is 1 July 2001.

IT IS ORDERED THAT:

- 1 The Applicant's claim for judicial review is dismissed in accordance with the judgment attached.
- 2 The Applicant and the witness referred to in the Tribunal's judgment as "AH" shall not be identified either directly or indirectly.

COSTS:

- (1) The Applicant shall pay the Respondent's costs of the claim (including the costs reserved) not to be enforced without the permission of the Tribunal and subject to an assessment of the Applicant's ability to pay under section 26 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Any costs shall be the subject of detailed assessment, if not agreed.
- (2) There shall be a detailed assessment of the Applicant's publicly funded costs.

Upper Tribunal Judge

McWilliam Signed:

Joanna McWilliam

DATED: 18 December 2023

The date on which this order was sent is given below

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): **20/12/2023**

Solicitors: Osbornes Solicitors

Ref No.

Home Office Ref:



Case No: JR-2022-LON-002079

IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

Field House,
Brems Buildings
London, EC4A 1WR

19 December 2023

Before:

UPPER TRIBUNAL JUDGE McWILLIAM

Between:

**THE KING
on the application of MR**

Applicant

- and -

LONDON BOROUGH OF NEWHAM

Respondent

Ms A Benfield

(instructed by Osbornes Law), for the applicant

Ms C Rowlands

(Counsel, instructed by London Borough of Newham) for the respondent

Hearing date: 15 and 16 August 2023

J U D G M E N T

Judge McWilliam:

1. I have been informed that on 2 October 2023 the SSHD refused the Applicant's claim for asylum and that he intends to appeal against this decision. The parties have made further submissions. Bearing in mind my conclusions concerning the Applicant's age, it is not necessary for me to engage with the post-hearing evidence or the submissions made. My decision has been reached without consideration of the outcome of the Applicant's asylum claim post hearing evidence or submissions.
2. The purpose of these proceedings is to determine the age and date of birth of MR, a citizen of Iran of Kurdish ethnicity. MR claims to have been born on 11.04.1383 in the Iranian calendar which converts to 1 July 2004 in the Gregorian calendar. The Respondent (LBN) considered that the Applicant is probably five years older. They rely on an Age Assessment conducted by social workers employed by LBN on 23 May 2022. The Respondent invites the Tribunal to conclude that MR was born on 1 July 1999 and make a declaration to that effect. On this basis the Applicant at the date of the hearing would be aged 24. The Applicant invites the Tribunal to conclude that he was born on 1 July 2004 and to make a declaration to that effect. This would make him aged 19 at the date of the hearing. The Respondent submits that on the balance of probabilities,

MR is at least five years older than his claimed age, and the Tribunal is asked to so find.

3. MR claimed asylum on 21 July 2021. He asserts that he fled Iran on or around 11.03.1400 in the Iranian calendar (1 June 2021 in the Gregorian calendar). MR claimed asylum on 21 July 2021. He was assigned the date of birth of 13 June 1996 and his claimed date of birth was recorded as 13 June 2004 which MR denies having provided. The Applicant's claim in a nutshell is that his father was involved with the PDKI and helped them. He worked as a "Kolbar" which is a term used for Iranian/Kurdish couriers or smugglers. One day his father was unwell and sent the Applicant to work in his place. The Applicant and others were ambushed by the Iranian security forces. The Applicant was able to escape, during which he dropped his Shenasnameh (ID card). His uncle arranged for him to leave the country.
4. On 17 September 2021 MR was accommodated and supported by the Respondent under s.20 of the Children Act 1989. From 8 October 2021 he started attending Waltham Forest College. In April 2022 the Respondent commenced an assessment of MR's age. Sessions were held on 20 and 29 April and 12 and 13 May 2022 with the assessing social workers Cornelius Ehimiaghe and Joanna Sas. Across the sessions, three different appropriate adults and three different Kurdish Sorani interpreters were present. On 11 July 2022 MR was informed that the Respondent had assessed him to be an adult, born on 1 July 1999 and therefore five years older than claimed. The assessment position was recorded as being as effective from this date, however support and accommodation provided under the Children Act 1989 was not immediately terminated and MR remained in the Respondent's care.
5. On 31 July 2022 MR's solicitors sent a letter before claim to the Respondent challenging the conclusion of the Age Assessment and the process under which it was conducted. On 12 August 2022 the Respondent provided a response to the letter before claim maintaining its Age Assessment was lawful and declining the relief sought. On 15 August 2022 the Respondent agreed to provide support and accommodation to MR until 22 August 2022 but refused to extend the provision of accommodation/support beyond this date. On 24 August 2022 the support and accommodation provided to MR by the Respondent was terminated and he was moved to adult asylum support accommodation provided by the Home Office in a hostel in London. On 26 August 2022 this claim was issued in the Administrative Court (CO/3120/2022) with an application for urgent consideration and interim relief. On 30 August 2022 Mrs Justice Steyn DBE granted an order for anonymity and directed the Respondent to file submissions in response to MR's application for interim relief by 5 September 2022. On 6 September 2022 the Respondent filed and served an acknowledgment of service and submissions on interim relief and the first witness statement of Gloria St Jean.
6. On 7 September 2022 further submissions on interim relief were filed and served on behalf of MR along with a second witness statement from Mr Edward Taylor, MR's solicitor. On 9 September 2022 the Respondent filed and served summary grounds of defence. By order dated 12 September 2022 Deputy Chamber President Tudur sitting as a Judge of the High Court refused the application for interim relief.

7. On 13 September 2022 a reply was filed and served on behalf of MR in response to the Respondent's summary grounds of defence. By order dated 18 November 2022 Judge O'Connor, sitting as a Judge of the High Court, granted the application for permission for judicial review and transferred the claim to the Upper Tribunal (Immigration and Asylum Chamber) pursuant to s.31A(3) of the Senior Courts Act 1981.
8. On 18 January 2023 the Upper Tribunal set initial Case Management directions. On 6 February 2023 MR sent a request to the French immigration authorities under Article 15 GDPR to request disclosure of any personal data held in relation to him in France. On 15 February 2023 MR provided a list of disclosure and statements from MR's solicitor, Mr Taylor, addressing the search conducted and disclosure provided in respect of MR's social media account. On 27 February 2023 an amended list of disclosure and statements from Mr Taylor in respect of MR's social media accounts was filed and served. On 28 February 2023 the Respondent applied for an extension of time to file its disclosure and/or relief from sanctions for the delay in complying with the Tribunal's directions.
9. On 3 March 2023 Upper Tribunal Judge Smith granted the Respondent's application for relief from sanctions and extended the time for the Respondent's disclosure to 27 February 2023. On 8 March 2023 the Respondent made an application with consent to extend time for filing/service of witness statements by the parties. On 13 March 2023 Upper Tribunal Judge Smith approved the parties' consent order extending time for the Respondent's disclosure in respect of witness statements. On 3 April 2023 in the absence of any response, correspondence was sent to the French immigration authorities chasing a response to the Article 15 GDPR.
10. On 13 April 2023 Mr Taylor received a response from the French authorities which states that the authorities are unable to respond to the request in summary because of a lack of identification number (AGDREF or foreign number) which meant the authorities were unable to identify MR. The French authorities also stated that a date of birth would be useful. On the same day Mr Taylor responded to the French authorities by stating that MR does not have either of the stated identification numbers and noting that his date of birth was included in the initial request.
11. On the same day a further reply was received from the French authorities confirming that MR did not go through the French Office for Immigration and Integration (OFII) and as a result, no data was processed in relation to him.
12. There was a Case Management Review hearing on 25 April 2023 and on 25 April 2023 directions were set for a fact-finding hearing.

The Law

13. I will summarise the applicable legal principles which I have applied in this case. In R (A) v Croydon LBC [2009] UKSC 8 the Supreme Court decided that "there is a right or a wrong answer" to the question whether an individual is or is not a child and that it was for the court to determine it. A person's age is a fact precedent to a local authority exercising any of its powers under the Children Act 1989. I must therefore determine, in my inquisitorial role and on the balance

of probabilities, whether the Applicant is a child. Neither party is required to prove the precedent fact and neither party bears the burden of proof (R (CJ) v Cardiff City Council [2011] EWCA Civ 1590). It is open to me having carried out a holistic assessment of all material evidence to reach a conclusion that is different from both the claimed age and the assessed age.

14. The assessment of age is not subject to statute. Procedures have been developed, primarily through case law. The judgment in R (B) v Merton London Borough Council [2003] EWHC 1689 (Admin), [2003] 4 All ER 280 laid down guidance in judicial review proceedings on appropriate processes to be adopted when a local authority is assessing a young person's age in borderline cases. Assessments which comply with those guidelines are said to be Merton compliant. In VS v The Home Office [2014] EWHC 2483 (QB) and (AB) v Kent County Council [2020] EWHC 109 the court set out a list of core principles as they derive from the case law. In R (HAM) v London Borough of Brent [2022] EWHC 1924 (Admin), Swift J held, that "it would be wrong to regard each item on the list as a requirement of fairness in every case" as although "each list contains a collection of some matters that will very likely be a requirement of fairness in all cases" there are "other matters that are unlikely ever to rise above general guidance or good practice".
15. I summarise the main points made:-
 - "(1) The purpose of an age assessment is to establish the chronological age of a young person.
 - (2) The decision makers cannot determine age solely on the basis of the appearance of the applicant, except in clear cases.
 - (3) Demeanour can be notoriously unreliable and by itself constituted only 'somewhat fragile material': NA v LB of Croydon [2009] EWHC 2357 (Admin) per Blake J at [28]. Demeanour will generally need to be viewed together with other things.
 - (4) There should be 'no predisposition, divorced from the information and evidence available to the local authority, to assume that an applicant is an adult, or conversely that he is a child': see Merton per Stanley Burnton J at [37-38]. The decision, therefore, needs to be based on particular facts concerning the particular person.
 - (5) There is no burden of proof imposed on the applicant to prove his or her age in the course of the assessment: see Merton per Stanley Burnton J at [38], confirmed by R (CJ) v Cardiff CC [2011] EWCA Civ 1590.
 - (6) Benefit of any doubt is always given to the unaccompanied asylum-seeking child since it is recognised that age assessment is not a scientific process: A and WK v London Borough of Croydon & Others [2009] EWHC 939 (Admin) per Collins J at [40]; see also [21] of A (AB) v Kent County Council [2020] EWHC 109 (Admin).
 - (7) The two social workers who carry out the age assessment should be

properly trained and experienced: A and WK per Collins J at [38].

- (8) The applicant should have an appropriate adult, and should be informed of the right to have one, with the purpose of having an appropriate adult also being explained to him or her.
 - (9) The applicant should be told the purpose of the assessment.
 - (10) The decision ‘must be based on firm grounds and reasons’ [and] ‘must be fully set out and explained to the applicant’: A and WK per Collins J at [12].
 - (11) The approach of the assessors must involve trying to establish a rapport with the applicant and any questioning, while recognising the possibility of coaching, should be by means of ‘open-ended and not leading questions’.
 - (12) It is ‘equally important for the assessors to be aware of the customs and practices and any particular difficulties faced by the applicant in his home society’: A and WK per Collins J at [13].
 - (13) It is ‘axiomatic that an applicant should be given a fair and proper opportunity, at a stage when a possible adverse decision is no more than provisional, to deal with important points adverse to his age case which may weigh against him’: R (FZ) v Croydon LBC [2011] EWCA Civ 59, [21].
 - (14) It is not sufficient that the interviewing social workers withdraw to consider their decision, and then return to present the applicant ‘with their conclusions without first giving him the opportunity to deal with the adverse points’. In R (HAM) at [32] the court stated ‘a fair interview will permit the person who is being assessed a genuine opportunity to explain his position to answer questions that may be put to him and to respond to matters adverse to their case’.
 - (15) Assessments devoid of detail and/or reasons for the conclusion are not compliant with Merton guidelines; and the conclusions must be ‘expressed with sufficient detail to explain all the main adverse points which the fuller document showed had influenced the decision’ (FZ, at [22]).”
16. In R (AM) v Solihull Metropolitan Borough Council [2012] UKUT 000118 (IAC) the Vice President of the Upper Tribunal stated, at [15];
- “In the present case the evidence is wide-ranging. It may therefore be appropriate to make some general observations about the impact of evidence of various sorts and from various sources in this type of case. First, we think that almost all evidence of physical characteristics is likely to be of very limited value. That is because, as pointed out by Kenneth Parker J in R (R) v Croydon [2011] EWHC 1473 (Admin) there is no clear relationship between chronological age and physical maturity in respect of most measurable aspects of such maturity.”
17. The guidance given in Merton was approved by the Supreme Court in R (A) v

London Borough of Croydon [2009] UKSC 8 where the following was stated:

“The decision maker cannot determine age solely on the basis of the appearance of the applicant. In general, the decision maker must seek to elicit the general background of the applicant, including his family circumstances and history, his educational background, and his activities during the previous few years. Ethnic and cultural information may also be important. If there is reason to doubt the applicant’s statement as to his age, the decision maker will have to make an assessment of credibility and he will have to ask questions designed to test his credibility.”

18. The observations made by the Upper Tribunal in R (AM) were endorsed by the Administrative Court in GE Eritrea, R (on the application of) v Secretary of State for the Home Department & Anor [2015] EWHC 1406 (Admin) (at [74]). In the earlier decision of NA v LB of Croydon [2009] EWHC 2357 (Admin) Blake J indicated, at [27], that physical appearance alone was a notoriously unreliable basis for assessment of chronological age. This was endorsed in VS (at [78]). In R (AM) the following was also stated:-

“There may be value to be obtained from observations of demeanour and interaction with others made over a long period of time by those who have opportunity to observe an individual going about his ordinary life. ... It [is] difficult to see that any useful observations of demeanour or social interaction or maturity can be made in the course of a short interview between an individual and a strange adult.”

19. The Upper Tribunal considered that the view of a person who could point to consistent attitudes and a number of supporting instances over a considerable period of time was likely to carry weight that observations made in the artificial surroundings of an interview could not carry. The Tribunal also noted that the evidence of interaction between an age-disputed individual and other young people may well assist in making an Age Assessment. The approach in R (AM) was endorsed in R (GE) v Secretary of State and Bedford Borough Council [2015] EWHC 1406 (Admin) where the Administrative Court noted that people can behave in a formal interview in a way that is very different from their normal behaviour as a result of nervousness, fear, feeling of intimidation, or because they simply want the experience to end.
20. In MVN v LB Greenwich [2015] EWHC 1942 the Administrative Court observed that the primary focus will be on the credibility of the person’s evidence concerning their age, but it is permissible to have regard to credibility more generally, as long as the primary focus is not forgotten. Any assessment of credibility must be made “in the round” and in light of all relevant evidence, including background country evidence and expert reports (Mibanga v Secretary of State [2005] EWCA Civ 367, Karanakaran v Secretary of State [2000] EWCA Civ 11), and allowance should be given to the fact that asylum seekers may have problems giving coherent accounts of their history: R (N) v Secretary of State [2008] EWHC 1952 (Admin).
21. When assessing the plausibility of the Applicant’s account I additionally remind myself that reliance on inherent improbability may be dangerous or

inappropriate where the conduct in question has taken place in a society whose conduct and customs are very different from those in the United Kingdom (HK v Secretary of State [2006] EWCA Civ 1037, at [29]; Araghi v Secretary of State [2006] EWCA Civ 973, at [7]).

The Evidence

22. The Applicant relied on his witness statement of 25 August 2022 and the witness statement of his friend, AH, of 21 March 2023. There are statements from the Applicant's solicitor, Edward Taylor, dated 24 August 2022, 6 September 2022 and 17 July 2023. The Applicant made an application to adduce this statement as part of the Applicant's evidence which I admitted at the hearing.¹
23. The Respondent relies on the Age Assessment and the witness statements of the social workers conducting the Age Assessment. The witness statement from the social worker Cornelius Ehimiaghe is dated 27 March 2023 and that of Joanna Sas 17 March 2023. There are witness statements from Gloria St Jean of 5 September 2022 and 10 March 2023. There is a witness statement from Bolanle Aderoyeje, a support worker. The Applicant gave evidence-in-chief and was cross-examined at the hearing. He called HS, who adopted his witness statement as his evidence-in-chief and he was cross-examined. Both parties relied on written closing submissions and addressed me orally.

The Age Assessment

24. It is not necessary for the purpose of this decision to set out the Age Assessment in full. I will engage with the salient points during my findings. It is helpful for me to set out the conclusion of the assessment which is detailed under section 9 of the Age Assessment under the heading "Analysis of information gained". It reads as follows:-

"[The Applicant] is a 17-year-old Iranian citizen, who is an ethnic Kurd. [The Applicant] arrived in the UK on 20 July 2021 and he claimed international protection because of being at risk of danger in the hand of Iranian security officials for his being involved in PKDI activities back home in Iran. However, following his arrival to the UK, staff of the Home Office had disputed his age. As they were of the view that his physical presentation strongly suggests that he is older than his claimed age. Hence the decision by the Local Authority to complete this Merton compliant age assessment report.

The assessors note that several factors may influence a child's development i.e., genetics, physical or psychological factors as well as family, neighbourhood, and cultural influences. Thus, we strive to uphold a holistic approach throughout the assessment and follow the guidelines set out in *B v Merton London Borough Council* (2003) EWHC 1689 which states '... decision makers cannot determine age solely on the basis of the appearance of the applicant (i.e., the Applicant)].

The assessors are mindful that age assessment is not an exact science and without a passport or national identity card, it is usually not an easy task to reach an exact conclusion on the age of any individual. But the assessors'

¹ Nothing turned on the evidence in the statement from the Applicant's solicitor dated 17 July 2023

task was made difficult by [the Applicant] who had deliberately tried to blur the timeline that would enable the assessors to arrive at a decision that is contrary to his claim of being a minor.

As part of completing this assessment report, the assessors took into consideration the information that were gathered from various sources:-

- 1 **FEEDBACK FROM HOME OFFICE:** The assessors requested for information from the Home Office and this feedback has been included within the views of professionals' section of this age assessment report.
- 2 **INFORMATION RECORDED ON [APPLICANT'S] CASENOTES:** The information obtained from [Applicant's] casenotes indicate that upon his arrival to the UK in July 2021, [the Applicant] advised the Home Office staff that his date of birth is 01/07/2004. However, the Home Office staff had disputed his age, as they were of the view that in his mid- twenties (sic).
- 3 **VIEWS OF PROFESSIONALS:** In the process of completing this age assessment, the assessors gathered information from relevant professionals (Key worker, the Home Office staff, the I.R.O., college tutor, and [the Applicant's] current social worker).
- 4 **[APPLICANT'S] VIEW:** This was obtained through face-to-face interviews that were held on 20 and 29 April, 12 May and 13 May 2022.

The assessors met with [Applicant] on four separate occasions during his age assessment interviews. Upon analysis of the totality of the gathered information, the assessors found the evidence in this assessment that suggests that [the Applicant] is older than his claimed age. The assessors are minded to consider that [the Applicant] presents more consistently as someone who has been an adult for some time, e.g., at least in his early twenties, rather than his claimed age current 17 years old. Below are the reasons for our conclusion:

- 1 **INCONSISTENCY IN [APPLICANT'S] CLAIM OF BEING ABLE TO READ:** On 29 April 2022, [Applicant] confirmed to the assessors that he could read and write in Kurdish Sorani. On 13 May 2022, during his Minded To session in response to question number 9, [Applicant] stated 'I do not know the names of the countries and places, because I cannot read and write.' [Applicant] supposedly did not attend school and yet he did not mention during his daily activities in Iran that he was taught to read/write.
- 2 **[APPLICANT] NOT MAKING EFFORT TO GET REPLACEMENT ID CARD FROM IRAN:** During his age assessment interview, [Applicant] told the assessors that his Iranian ID card got missing during his participating in a night mission for the Peshmerga militia group. Knowing full well that the Home Office staff had disputed his date of birth, the assessors would expect [Applicant] to contact his family members or friends in Iran to get him his birth registration

document or to apply for and get him a replacement Iranian national ID card from Iran. Instead, [Applicant] had tried to gamble on the possibility of the assessors backing off when he tells us that he is not in contact with his family members and friends and his family members and friends trying to get a birth registration document or replacement Iranian ID card would put them (i.e., family members and friends) at risk. During the intervals in his age assessment interviews, the assessors observed that [Applicant] was using his mobile phone to access different websites. [Applicant] also told the assessors that he uses Facebook and TIKTOK, which shows that he is internet savvy. As a result, if he is so convinced that 11/04/1883 (Iranian calendar) or 01/07/2004 (Gregorian calendar) is his real 'D.O.B.,' nothing prevents him from contacting his computer expert father to ask him to send him either his certificate of birth registration or a replacement Iranian ID Card. From the Local Authority experience of supporting UASC, it is a normal practice for young persons whose age are disputed to provide their social workers relevant birth registration documents or other age related document (sic) that either their family members or friends have sourced for them from their country of birth.

- 3 **[APPLICANT'S] INCONSISTENCY IN RESPECT OF SARDASHT CITY:** The assessors noted that [Applicant] told his social worker (Gloria) that he was born in Sardasht city and he lived in the place with his parents until he travelled out of Iran. However, during his age assessment interview, [Applicant] told the assessors that he was born in Sardasht city and four years after his birth, he moved with his parents to the village of Kanyarash and he stayed in Kanyarash until he left Iran. But when the assessors asked [Applicant] the name of the town where he attended school, he stated that he could not remember. On 12 May 2022, [Applicant] told the assessors that he remembers travelling to Sardasht with his father on one occasion. Furthermore, when the inconsistency of his account regarding his stay in Sardasht city was put to him during the Minded To session, [Applicant] stated between 5 to 6 years old they stayed in Sardasht and then moved to Kanyarash. To the assessors the inconsistency that [Applicant] displayed in respect of his knowledge of Sardasht is an indication of a person, who has been coached by unknown persons to make untrue claims about their past lived experience. The assessors are baffled by the reality of [Applicant] not being able to remember the name of the town where he attended school. Especially when he can remember that his family moved from Sardasht city to Kanyarash when he was four years old.
- 4 **DISCREPANCY IN RESPECT OF THE YEARS HE SPENT IN SCHOOL:** [Applicant's] electronic case notes held by the Local Authority state that [Applicant] told his allocated social worker that he attended school in Iran for a period of two years, however, the subsequent feedback from his social worker states that he attended school for 2 months. During his age assessment interview, [Applicant] told the assessors that he attended school in Iran for two months only,

in a space of two years. Regardless, research by the assessors indicates that primary school is compulsory and free in Iran. This raises the issue of the credibility of his educational attainment, as [Applicant] could not tell the assessors the year he started school and the year he stopped attending school. It is acknowledged by the assessors that it can be difficult for young people to remember dates in cultures where births are not registered, and birthdays are not celebrated. However, by [Applicant's] own account, he had an identity document, and he often marked his birthday with a celebration. Therefore, on the balance of probabilities, it is reasonable to conclude that [Applicant] would have some sense of time and the age he was when he attended school. The assessors are of the view that [Applicant] may have deliberately tried to conceal the real period he attended school in Iran to prevent the assessors from establishing a credible timeline that will enable us to calculate his real age.

- 5 **[APPLICANT'S] EXPLANATION FOR THE REASON HE STOPPED ATTENDING SCHOOL:** [Applicant] told his allocated social worker (Gloria) and the assessors that the reason he stopped attending school is because his father hated the Farsi people and his father did not want him to learn in the Farsi language. However, [Applicant's] claim was put to test by question 6 in the Minded To session. [Applicant] did not give a credible response to this question. As it is clear to the assessors, that both Sardasht city and Kanyarash are in the Sardasht County in Iran, which is populated by Kurds. Primary education in these two places are held in the Kurdish language. This now led [Applicant] to say to the assessors:

'we had Kurdish language and Farsi language in school as well.' This statement by [Applicant] contradicted his earlier claim to safeguarding professionals that his father stopped him from going to school because his father did not want him to learn in Farsi language. Even if there is an element of truth in [Applicant's] claim about his father's dislike of the Farsi people and their language, one would have expected [Applicant's] father to move him to a school where the Kurdish language is used in teaching the students. Particularly, as he described his father to be an intelligent man.

- 6 **[APPLICANT'S] INABILITY TO PROVIDE THE ASSESSORS WITH A CREDIBLE ACCOUNT OF WHAT HE DID ON A TYPICAL DAY:** During his age assessment interviews, [Applicant] stated that on a typical day, he cared for the family cow. Initially [Applicant] told us that the family had two cows, then he later stated that it was one cow. [Applicant] stated that he cleaned the cow shed and helped his mother to prepare the family meals and played with his friends. Although this sounds like a monotonous reality for a teenager, it is possible that [Applicant] may have lived a simple life. However, [Applicant] failed to include learning to read and write in Kurdish Sorani as part of his typical day. If it were true that he did not attend school, it would be reasonable to expect him to have some regular informal lessons at home to enable him to become literate in Kurdish Sorani as he stated he is. The omission of this harms the credibility of his account of his typical day, therefore buttressing the conclusion of the assessors that

he has deliberately attempted to conceal the real period he attended school through his sparse description of his typical day, to prevent the assessors from establishing a valid timeline.

- 7 **SOURCE OF FUNDS FOR HIS TRAVELLING FROM IRAN TO THE UK:** The assessors noted that [Applicant] told safeguarding professionals that he had to flee from Iran ‘suddenly and unexpectedly.’ [Applicant] is also noted to have told the assessors that his mother is a housewife, his father worked as a porter (‘Kolbar’) and also worked for the Peshmerga militia. [Applicant] also claimed that his family members lived in a sparsely furnished one-bedroom storey building (sic). Throughout his age assessment interview, [Applicant] maintained that he did not know who funded his travel from Iran to the UK. However, during his Minded To session, [Applicant] told the assessors that it was his uncle that funded his travel from Iran to the UK. This is another example of the inconsistency in [Applicant’s] oral account of his past lived experience.
- 8 **[APPLICANT’S] PARTICIPATING IN ADULT LIFE STYLE CHOICES (sic):** During his age assessment interviews, [Applicant] told the assessors that he bought cigarette (sic) from a street cigarette seller and he also bough (sic) alcohol from a Tesco shop. [Applicant] told the assessors that none of the two persons (sic) asked him for his ID card before they sold cigarette (sic) and alcohol to him. The assessors are mindful that in the UK, the purchase of the two items are restricted only to persons who are 18 years and above. Given that these two sellers did not ask [Applicant] for his ID card that will prove his age; before selling him these two age restricted item (sic), the assessors would want to assume that both sellers may have looked at [Applicant’s] physical presentation and reached a conclusion that he is at least 18 years of age. Hence, their decision not to ask him his proof of ID. Though [Applicant] had wished away the attitude of the cigarette seller selling his illegal product to anyone who offers him money, [Applicant] cannot wish away the conclusion of the Tesco shop counter staff. As Tesco staff and other off license shop staff have a responsibility to ask their customers for their ID cards, in situations when they doubt their age, before selling alcohol and tobacco to them. In particular, Tesco implements a ‘Think 25’ policy, whereby anyone who may be over 18 but looks under 25 is challenged for their ID (<https://www.tescopl.com/sustainability/documents/policies/responsible-retailing-of-alcohol-tobacco/>). Although the assessors cannot speculate on the views of the store staff, it is reasonable to infer that if [Applicant] was not asked for ID, he was viewed as presenting as an adult who is over who is over (sic) the age of 25 years.
- 9 **[APPLICANT’S] ATTEMPT TO PREVENT THE ASSESSORS FROM ESTABLISHING A CREDIBLE TIMELINE OF HIS JOURNEY:** On 13 May 2022, during his age assessment interview,

[Applicant] told the assessors that he does not know the name of the country that he was arrested and fingerprinted in. It is common practice in Western Europe, for foreigners who violate the laws of a country to be given a fair chance of understanding the reason for their detention. This is done by providing them with access to the services of a suitable interpreter, access to an advocate and a copy of the document containing the reasons why they were detained and fingerprinted by the immigration officers/Police Officers. The assessors acknowledge that traumatic experiences can affect memory, however, by [Applicant's] own account, his lack of detail was due to being under the control of the smugglers. It is reasonable to assume [Applicant] would have had some indications of the country he was in whilst his fingerprints were taken. For example, by observing the country's flag being displayed at a border point, even if he were unable to read or speak the language. Therefore, on the balance of probability (sic), the assessors consider that [Applicant's] claim of lack of knowledge of the country where he was arrested and fingerprinted could likely be a deliberate attempt by [Applicant] to prevent the assessors from establishing a credible timeline of his journey. There is a possibility that he has been coached by unknown persons to say he does not know the country, as this claim would enable his estimated two months' journey timeline to appear credible, when in reality his journey could have been longer than he claimed. This action by [Applicant] and his unknown advisers is regarded by the assessors as a potential attempt to capitalize on the reality that since BREXIT came into effect, on 1 January 2021, the Home Office staff are no longer able to access information from the Eurodac database. This database contained information on all persons above the age of 14 years who have applied for asylum in the 26 countries that are part of the Eurodac system. The assessors view [Applicant's] action as that of a person who has falsely accessed LAC (Looked After Children) services in England to gain a favourable asylum decision in the UK.

- 10 **DEVELOPMENTAL CONSIDERATION/PHYSICAL CHARACTERISTICS:** Although not a single determinative factor, [Applicant's] physical and secondary sexual characteristics are prominent and he appears older than his claimed age of 17 years. During the period of his age assessment interviews, the assessors observed [Applicant's] tone of voice which has already broken. [Applicant] had an Adam's Apple. Having an Adam Apple (sic) is an indication that [Applicant] is not a teenager, as he would want the assessors to believe. [Applicant] presents as an adult in the way he related with the professionals and in the confident way he responded to the questions he was asked. This make (sic) the assessors to question [Applicant's] claim that he is currently 17 years old.

Finally, the inconsistency in [Applicant's] oral account of his past lived experience raises questions about his credibility. These include [Applicant's] claim of being unable to read and write, his contradictory views about Sardasht City and his contradictory views about the duration he attended school in Iran.

CONCLUSION: The assessors have considered the totality of the information available to them within this assessment. [Applicant] took an active part in the assessment, which was held at Beckton Road (London Borough of Newham).

The assessors have also considered recent research from the Helen Bamber Foundation which highlights that there may be several processes that can affect asylum-seekers' abilities to narrate past experiences fully to the professionals interviewing them (Abbas *et al.*, 2021 - Available at: <https://www.helenbamber.org/resources/research/texture-narrative-dilemmas-qualitative-study-front-line-professionals-working>).

The assessors acknowledge that people may sometimes select which information to disclose based on their perceptions of its pertinence to the particular interview or interviewer. The assessors did their utmost to counter this and encouraged [Applicant] to be open and honest during his assessment by clarifying their role as separate to the Home Office, and building rapport with [Applicant] throughout the assessment, demonstrated by [Applicant's] relaxed demeanour and engaging in laughter at times. Furthermore, to ensure [Applicant] was comfortable to provide full and honest account (sic), the gender of the assessors was also considered and balanced, and the interview room was quiet, naturally lit and spacious. Nevertheless, [Applicant's] account still led the assessors to doubt his credibility and timeline.

Research also highlights that it is unrealistic to expect asylum-seekers to make full disclosures in a single interview, which the assessors countered by gathering information from various sources and conducting the interview over sessions on four separate days.

The assessors also recognise that the human memory can be affected by trauma, particularly in individuals with PTSD, however, [Applicant] did not display any symptoms such as losing awareness of his surroundings and sense of self which could result in a lack of clarity or coherence in his narrative. It is noted that [Applicant] openly shared with the assessors the 'worst day of his life' when he was separated from his family but was less clear with theoretically mundane details such as his educational history and the account of his typical day.

The assessors also acknowledge that survivors of human trafficking are often given information by their traffickers, such as names of locations, which they believe and repeat in their interviews. However, there is no evidence to suggest that [Applicant] was trafficked for exploitation as opposed to smuggled into the UK.

The assessors have therefore considered the principle of 'benefit of the doubt', but we do not think that this could be applicable in [Applicant's] case.

The assessors recognise that age assessment is not an exact science. However, considering the totality of the information gathered in this assessment, it is the assessors' view, that [Applicant] is older than his claimed age of 17 years old. [Applicant's] age range has been assessed as 21 to 25 years with 22 years being his likely age".

Conclusions

25. Ms Rowlands submitted that the Age Assessment is expert evidence before the Tribunal. I accept that the assessors are best placed to make an assessment as to the applicant's age. They saw the Applicant over a prolonged period. One of the social workers was very experienced. He has significant experience with local authorities including Croydon, Kent and Hillingdon, all of which get the bulk of Age Assessments from those entering the UK at Gatwick, Heathrow and Dover. There is no reason to conclude that the assessors are not sufficiently qualified to carry out Age Assessments. One of the of the assessors is very experienced, the other less so.
26. The Applicant's case is that the Age Assessment was not procedurally fair for failure to ensure an effective Minded To process and that it was not based upon firm grounds for reasons such that it is of little assistance to the Tribunal as a source of evidence to determine the Applicant's age. I accept that the following points were not put to the Applicant for comment:-
- i The Applicant was unable to provide a credible account of what he did on a typical day.
 - ii The Applicant related to professionals in an adult way and was confident in his responses.
 - iii The inconsistency in the Applicant's account concerning his ability to read and write.
 - iv That either the Applicant or agents were aware as a result of Brexit that it is not possible to access Eurodac systems and that the Applicant had sought to capitalise on this.
27. I accept that these points fed into the assessors' conclusion. The Respondent has not addressed the issue raised that the points were not put to the Applicant. I have considered whether the procedure was unfair. In relation to (iii), I note that the inconsistency did not come to light until the Minded To process. Context is important. There were other matters that were material to the assessment which were put to the Applicant. The assessors put to the Applicant the discrepancy in respect of his education and where he said he grew up in Iran. They put to him why he had not attempted to obtain a replacement ID document. It was also put to the Applicant that he had been coached by people smugglers, he was deliberately vague and that he had been purchasing cigarettes and alcohol (the implication being that those who served him did not ask for ID).
28. In R (HAM) v London Borough of Brent Swift J considered an Age Assessment where a Minded To session was held, however material credibility points were not put to the applicant. The Applicant relies on the following extract from [51] where Swift J held that:-
- “[t]he latter points, which were thought to go to the Claimant's credibility feed into the conclusion that his apparent age (not his claimed age) was his real age. For that reason, those points should, in fairness, have been put to the Claimant. The Claimant's response to what was put to him, that he did

not know if he was a child or not, is not to the point. The point here being the fairness of the procedure, not whether the conclusion was correct”.

29. Swift J stated that it was clear that Stanley Burnton J in Merton did not equate the legal requirement for any fair procedure with any sort of checklist and that fairness is a matter of substance and not simple form. Swift J stated that this was the “origin and essence of the observations at paragraph 50 [of Stanley Burnton’s judgement]” which Swift J described as critical. He said that when considering whether an Age Assessment has been conducted fairly the court must focus on the case before it; however, while he said it would be wrong to regard each item on the list with reference to VS and AB as a requirement of fairness in each case, he referred to what he described as three general considerations that were central to Stanley Burnton’s approach in Merton as the most important matters. Swift J set out the three general considerations at [10]-[11] of his judgement. I summarise these; (i) there is no burden of proof; (ii) the assessment must be based on reasonable enquiry and, (iii) an interview or other form of enquiry must be undertaken fairly. In respect of (iii), Swift J stated as follows:-

“11. *Third*, when such an interview or other form of enquiry was undertaken it must be undertaken fairly. One matter was emphasised. If the person’s credibility was an issue that should be made clear and should be dealt with head on during the investigation process. In cases where the local authority was minded to conclude the person claiming to be a child was lying, that provisional view and the reasons for it should be explained to him and he should have an opportunity to respond before a final decision was taken”.

30. It is necessary to consider not just what was said in the cited extract of paragraph [51]. For proper context it is necessary to consider paragraph [50] and the whole of [51]. I do not accept the submission made by Ms Benfield that this case is on all fours with HAM. The deficiencies in the Minded To process in HAM were significant. There were three serious failures to put obviously material matters to the applicant. I take into account the point is the fairness of the procedure and not whether the conclusion is correct. While each and every point was not put to the Applicant during the Minded To process, his credibility was an issue and this was explained to him and he was given ample opportunity to respond. The omissions are not as significant as suggested by Ms Benfield and they are not such that they render the procedure unfair. I have also taken into account what was said in HAM in paragraphs 53- 56 under the heading “Conclusion and disposal” about the Upper Tribunal’s role as the finder of primary fact and that the error identified not being “of the most serious nature”. I do not find the Age Assessment to be flawed on the basis that it is procedurally unfair. In any event, had I found it to be so, it would remain for me to perform the task of deciding the Applicant’s age. In so doing I attach weight to the Age Assessment. I do not, however, accept all the points raised by the assessors or Ms Rowlands; however, I have weighed up all the evidence for and against the Applicant. I conclude that it is reasonably likely that the Applicant has not told the truth about his age and that he is older than he claims to be.
31. The Applicant’s account is that he dropped his ID card prior to fleeing Iran. The assessors considered that the Applicant should have contacted his family members to obtain his ID document or a replacement noting that his “computer

expert father” could have sent him either his birth certificate or a replacement Iranian ID card. Taking into account the Landinfo Report, I accept that the Applicant cannot reasonably be expected to obtain a replacement. This would mean a direct approach to the Iranian authorities would need to be made. This would highlight that he is outside of the country. I accept the Applicant’s submission that this would involve risk alerting the Applicant and his family to the authorities. While the Applicant in the Minded To session did not specifically raise risk; he did say that he did not know if it was possible to obtain a replacement because this would require a photo and fingerprints. Bearing in mind the regime in Iran, the Applicant's Kurdish ethnicity and his evidence that his father was a Peshmerga, it is not reasonable to expect him to have obtained further evidence from his family. I do not agree with Ms Rowlands submission that there is a “striking omission” in the Applicant’s case namely the absence of evidence from the Applicant’s family, school records or other supporting documentary evidence. I accept that the Applicant had little material to advance in support of his claimed age, but this must be considered in context.

32. In the CYPS single assessment conducted by Children and Young People’s Services the Applicant was assessed by Gloria St Jean on 16 January 2022. She recorded in the assessment that “[the applicant] shared that he attended school for two years in his childhood as his father didn’t allow him to go to school because he was afraid that he would be discriminated against for being Kurdish”. During the Age Assessment the Applicant disputed having told Gloria St Jean this. His evidence is that he told the social worker that he had been to school for two months, one month in each year. He said that his attendance in education was irregular, his father taught him at home and he also learned through the use of a smartphone.
33. During the Age Assessment the Applicant was asked how long he attended school in Iran. His answer was “two months within the two years’ period”. The reason he gave for this was; “my father did not allow it. He did not like me to learn the Farsi language”. He told the age assessors that he was taught in Farsi. During the Age Assessment he said that “we had Kurdish language and Farsi language in school as well”. This was said by the Applicant after it was put to him that the area where he said he had grown up is populated by Kurds and that primary education there is in the Kurdish language. The evidence relied on by the age assessors to support that the area is mainly Kurd dominated and the Kurdish language is the language in which primary school children are taught has not been disclosed. The Applicant relied on the Home Office CPIN: Iran: Kurds and Kurdish political groups, v.4.0 (May 2022) which supports that schools do not offer state education in Kurdish and that there are restrictions on teachers being required to obtain permits to teach in the Kurdish Language. The CPIN notes that “Kurds in Iran face systematic discrimination and barriers which effects their access to basic services such as housing, political office, employment and education”. My attention was not brought to the evidence upon which the assessors relied in the Minded To meeting. I have considered the Applicant’s evidence in the context of the CPIN. It is reasonably likely that state education is in Farsi.
34. In the Applicant’s witness statement he said that his father did not want him to learn Farsi and he did not want him to be influenced by the system in Iran which discriminated against Kurdish people. He was not aware why his father allowed

him to attend school for those two short periods and then changed his mind. He was asked during the Age Assessment if he remembered the year he started school and he stated "I was very little then. I do not know". He could not remember the town in which the school was located stating that he was aged 8 to 9 years old at the time. In his witness statement of 25 August 2022 he said that he attended school in Iran:-

"when I was 6 or 7 years of age and only for a period of one month or so. The following year, I attended school for approximately one month and left school again. In two years, I only attended school for a period of two months".

35. In oral evidence he said he attended school for two months during a period of two years. He was asked how old he was when he started school. He did not directly answer the question. He said that normally in Iran you start school at aged 6-7. He was then asked by Ms Rowlands to answer the question. He said that had already answered it and that he went to school when he was aged 6-7, as far as he can remember.
36. What he is recorded as telling Gloria St Jean is not necessarily inconsistent with his evidence that he attended school for two months over a period of two years. I accept that any perceived inconsistency may have arisen from a misunderstanding or lack of detail. However, I note this is not the only issue taken by the Applicant concerning what he told Gloria St John. The Applicant does not agree to what she states he told her about when he moved to Kanyarash (see below). While it is not unusual for a mistake to be made in translation or in recording the full details of what a person has stated, two mistakes are less likely to have been made. I take into account that it is more difficult to put together a coherent timeline on the basis of the Applicant having been at school sporadically rather than for a continuous period of two years.
37. The Applicant has been relatively consistent about his father's attitude towards Farsi and discrimination against those of Kurdish ethnicity which is consistent with the background evidence. He has, however, been inconsistent about the age when he started school. I also find it odd that he was unable to name the location of the school considering his account as a whole. He was able to give an account of where in Iraq he was from and he gave the names of towns. These matters support the Respondent's contention that the Applicant has been deliberately vague.
38. The age assessors concluded that the Applicant had not provided a credible account of what he did on a typical day. This was not a matter that was specifically put to the Applicant in the Minded To meeting. The Applicant's case is that this is not a fair characteristic of his evidence which is consistent with a family living in a village in Iran. The Applicant states that he may have lead a simple life, but it is not one that is incredible nor where the lack of detail goes against his credibility in respect of his age. The Applicant in the Age Assessment gave an account of what he did at home in his village. It is a brief account of helping his mother. He claims to be a child and not working or attending school. A point is taken by the assessors that he had changed his account in respect of how many cows the family had and that he must have had some lessons in Kurdish Sorani to enable him to become literate and if he was not at school, he

would have been educated at home. The Applicant has been inconsistent about how many cows the family had. It would be reasonable to expect consistency as to whether the family had one or two cows. The Applicant's evidence in his witness statement is that he did not learn Kurdish Sorani every day of the week but that his father would sit him down and teach him to read and write whenever he had time and he was at home. I do not find that this latter point in isolation is problematic for the Applicant; however, his account about his education is problematic as a result of the inconsistency as to his age when he started school, the duration of his attendance and the failure to state the location of his school.

39. In the Applicant's witness statement his evidence is that his parents told him that he was born in Sardasht city on 11.04.1383. He said that he did not remember living there because he moved to a village called Kanyarash when he was aged 4 or 5 where they lived until he was aged 16. This is more or less consistent with what he told the age assessors in the Minded To session when the Applicant stated that he was in Sardasht until he was aged 5 or 6 when they moved to Kanyarash. This is not consistent with the evidence of Gloria St Jean in the Child and Family Assessment completed on March 2022. It is asserted that the Applicant told Ms St Jean that he was born in Sardasht city where he lived with his parents until he left Iran.
40. The age assessors relied on a perceived inconsistency in respect of what the Applicant said about whether he can read or not. This was a point that was not put to the Applicant in the course of the Minded To session. However, it was an inconsistency that did not arise until the Minded To session where it was put to the Applicant that he deliberately claimed not to remember the countries that he passed through and he said that he did not know the names of the countries because "I cannot read or write". It is unfortunate that the assessors did not probe this during the Minded To session. It is a possibility that the assessors read an inconsistency into the Applicant's account that was not there. The Applicant has never claimed to read any language other than Kurdish Sorani. The Applicant's response during the Age Assessment that he was unable to read may have related solely to his journey and his explanation why he did not know what countries he passed through because he could not read or write in the language of those countries.
41. The age assessors attached weight to what they perceived as the Applicant having prevented them from establishing a credible timeline in respect of his journey to the United Kingdom. They rely on the Applicant not remembering a country (Germany) where he was arrested and fingerprinted. The Applicant's evidence is that he was under the influence of people smugglers. It is not implausible that the Iranian Applicant would not remember a European country he passed through when under the control of traffickers. However, he did not simply pass through Germany, he was arrested and fingerprinted there. I would have reasonably expected him to have remembered this. That he does not remember supports the Respondent's case that the Applicant is being deliberately vague.
42. The age assessors relied on a discrepancy in respect of the funding of the journey from Iran. It may be that this is more relevant to the asylum claim. It is a peripheral issue to the assessment of the Appellant's age. However, it is a matter to which I attach some weight. There is no cogent evidence supporting how this

Applicant's journey to the UK was funded.

43. The age assessors rely on the possibility that the Applicant has been coached by traffickers and that he wishes to capitalise on Brexit. I accept that the latter point was not put to the Applicant during the Minded To session; however, it was put to him that he deliberately claimed not to remember countries and that he was obfuscating a timeline. While it is reasonable to infer that traffickers coach, and indeed the Applicant may have been coached, if this is the case, it is not necessarily evidence that the Applicant has lied about his age. However, I am mindful of it when considering the evidence. I am also mindful of the post Brexit position and the possibility of exploitation from the inability to access Eurodac data base.
44. The age assessors relied on the Applicant's perceived lifestyle choices. He was sold cigarettes and alcohol (on one occasion) without being asked his age. It can reasonably be inferred that those selling products to him believed him to be aged 18. I have taken into account the Tesco "Think 25" policy relied on by the assessors. I cannot speculate about what is in the mind of shopkeepers, but it is one piece of evidence capable of supporting the Respondent's case. I accept that in isolation it is not cogent evidence of the Applicant's age.
45. The age assessors relied upon the Applicant's developmental consideration/physical characteristics noting that his voice had broken, that he had an Adam's apple which they deemed not to be an indicator that he was a teenager. The observation in relation to Applicant's adult-like interaction/confidence in answering questions was relied on by the assessors but not specifically put to him during the Minded To session. The age assessors found that the Applicant presented as an adult. In respect of the Applicant's physical appearance, caution should be exercised. I remind myself that almost all evidence of physical characteristics is likely to be of limited value and there is no clear relationship between chronological age and physical maturity. In respect of demeanour, I remind myself that by itself it is "fragile material" and that it needs to be viewed together with other things.
46. In respect of his attitude and the suggestion of confidence, Ms Rowlands expanded on this in submissions. She said that the Applicant became angry when challenged. She said that he was confident and arrogant. She said that he has excellent self-care skills. She submitted that during cross-examination his demeanour was consistent with the age assessed. She asked me to take into account the Applicant's appearance and contrast it with that of the witness of AH. She said that AH's face is round with rosy cheeks. She accepted that appearance can be fragile, but submitted that in this case it is a necessary part of the assessment and a significant part of the evidence.
47. I attach weight to the observations made by the assessors about developmental considerations. However, while he was found to present as an adult, it is relevant that on his own evidence the Applicant was at the date of the assessment almost an adult. I exercise caution when considering demeanour which is notoriously unreliable. The Applicant appeared confident during the Age Assessment and when giving evidence, but he is now an adult and he was almost an adult at the Age Assessment. In oral evidence for the first time the Applicant said that was scared, confused and terrified during the Age Assessment. This would on the face of it be at odds with how he came across by

the age assessors. It may be that he was adept at concealing his true feelings or that he is not telling the truth. In my view it is more likely to be the latter. His assertions were not supported by the appropriate adult who made no observations which would support how the Appellant said he was feeling. The assessors noted the Applicant joking to them. His evidence was that this was a coping strategy and that he did not want to mention to the assessors that he was tired and confused because then the interview would have been cancelled. It is significant that no issue was raised by the appropriate adult who was in attendance. The evidence supports that the Applicant has exaggerated how he was feeling during the Age Assessment.

48. The evidence of physical characteristics is of limited value. My own opinion of the physical characteristics of the Applicant and any comparison with those of a witness is of even less value. It is more likely than not that the Applicant wanted to make himself look younger. After the first meeting with the age assessors he shaved off his beard. He may have realised that not having a beard made him look younger. I have also noted a discrepancy in his evidence about when he started shaving.
49. The Applicant's evidence is that he knows his date of birth for a number of reasons. In his witness statement his evidence is that he has known his date of birth since he can remember. He remembers talking to his parents who told him that his date of birth is 11.04.1383 in the Iranian calendar. During the Age Assessment he said that he could not remember who told him his date of birth but it should have been his family members. The thrust of the Applicant's evidence is that he knows his date of birth because his parents told him. There is nothing unusual about this. Moreover, he has been consistent about having an ID card which is supported by the background evidence.
50. The Applicant also stated that he read the date of birth displayed on his ID card which read 11.04.1383. During the Age Assessment the Applicant stated that the only document that he had seen showing his date of birth was the ID card but he was unable to read what was written on it because it was in Farsi. He was asked how he knew what was written on it and he stated, "my family told me so and they celebrated my birthday by holding a small party for me". In cross-examination he stated that he read the ID card and that numbers are the same in Farsi and Kurdish. His evidence lacks clarity about whether he read or was able to read the date of birth on the ID card.
51. The Applicant stated that he knows his age because his family would celebrate his birthday although this would not happen every year. He remembered celebrating his 16th birthday the year before he left Iran. There is nothing implausible about this which is a matter about which the Applicant has been relatively consistent.
52. On 29 April 2022 the Applicant was asked by the age assessors about his date of birth and he said his date of birth is 11/03/1383. He was asked how he knew this and he said that he did not know but he was told this by Migrant Help. On 12 May 2022, he said he had been confused during the first interview. He produced a post-it note on which was written what he said was his correct date of birth: 11/04/1383. The Applicant's evidence about this in cross-examination was that the correct date of birth was written on a post-it note by his support worker

Paula. The Applicant stated that having left the first interview he was unsure that he had given the correct information. He immediately informed staff at the placement of the date of birth that he had given after his first interview and this was corrected by Paula who gave him the post-it note (there is no evidence to support this). The discrepancy came to light in the Minded To session. In oral evidence, for the first time, the Applicant stated that the confusion arose because a Kurdish 4 looks like a Kurdish 3 (it was not challenged that the two figures are similar in Kurdish and Farsi). Ms Rowlands' submission was that this explanation cannot be true because the Applicant gave the date of birth orally at the first meeting on 29 April 2022. I do not follow the logic of the submission. The Applicant's confusion between the two numbers as they are written could form the basis of a misunderstanding of what he states orally. It is also important to note that whether the correct date of birth is 11/04/1383 or 11/03/1383 in Kurdish Sorani, he would be a child at the relevant time. I do not find that the "discrepancy" is significant.

53. There is no documentation disclosed which indicates that the Applicant was asked about his age before 21 July 2021. He arrived in the UK on 20 July 2021. There is no record of an interview or discussion with him. There is a GCID record which states that between 20 and 21 July he was recorded as an unaccompanied minor. On 21 July 2021 his age was disputed by the Home Office which led to the issue of an IS97M. What is recorded on this document is curious. The date of birth said to be claimed by the Applicant is 13.06.2004. The same document records 13.06.1996 as the Applicant's deemed date of birth; however, GCID records of the same date records his date of birth as 16.06.1996. The point made by the Respondent is that it is not credible that the Applicant was never asked for his date of birth between his arrival and the issue with the IS97M and that the date of birth recorded on this document "must have come from somewhere". However Ms Rowlands accepted that it was not the Respondent's case that the Applicant had ever said his year of birth was 1996. It is likely that this date of birth was attributed to him by an immigration official. In relation to the date of 13.06.2004, it is inconsistent with the date of birth on which the Applicant now relies. Ms Rowlands submitted that 13.06.2004 came from the Applicant. However, there is no record of the Applicant providing this date of birth. I have seen no evidence of a discussion having taken place which would support that the information was given by the Applicant. Moreover, there is further confusion arising from the reference to 16.06.1996 from the GCID which has been produced.
54. If the point is that the Applicant did not say that he was a child at the first encounter with immigration officials, a matter which is capable of undermining his credibility, there is no documentary evidence to support the Respondent's case. I accept that it could be reasonably expected that the Applicant would be asked about his age between his arrival in the UK on the 20th and before he was taken to a detention centre and issued with a an IS97M, but there no record of this and I am not prepared to speculate. The Applicant's evidence is that when he was in the detention centre he was told his date of birth was in 1996 and he said how old does that make me and they said age 26 and he said that this was not correct and that he was aged 17. There is no evidence of this Applicant

stating to any immigration official that he was an adult or having given a date of birth which means that he is an adult.

55. The Respondent relied on the initial contact and asylum registration questionnaire in which the Applicant was asked at question 1.14 "What is your occupation in your home country?" The Applicant gave the answer "Kolbar". The Respondent's submission is that this is not consistent with the Applicant's account that he was asked to cover for his father as a one-off. The implication is that the Applicant was working in his own right as a Kolbar, which would support him being an adult. This is a matter capable of casting some doubt on the Applicant's account however it is not the Respondent's strongest point. I also take into account that the Applicant has been consistent on this point about having worked as a Kolbar on one occasion. I take into account that the primary focus is on the credibility of the person's evidence concerning his or her age, but that it is permissible to have regard to credibility more generally provided that, in looking at credibility more generally, the primary focus referred is not forgotten: MVN v LB Greenwich [27].
56. The Applicant does not accept having claimed asylum in Germany. The point arises from the Home Office disclosure which states "applicant travelled through a safe country prior to arrival in the UK and claimed asylum in Germany. Please see screening form For more information". I accept that there is nothing in the screening form relating to this. There is no evidence of a match having been found against this Applicant evidencing an asylum claim in Germany. By the time the Applicant arrived in the UK, the UK had lost access to the Eurodac system. I accept that from the evidence now relied on by the Respondent it is not clear how such information would be known to the UK authorities. However, he did go to Germany where he was fingerprinted and I would have expected the Applicant to have been aware of this.
57. The Respondent relies on the French authorities not having information on the Applicant to support that he gave a different date of birth to the French authorities. I accept the point was not put to the Applicant in cross-examination. I take into account that there was a request to the French authorities for a search against both 01.07.2004 and 11/04/1383 in the Iranian calendar and the following was part of the request "please provide any records relating to be saved against any other ages /dates of birth". The French authorities confirmed that they had no information held against the Applicant. Further correspondence confirms that the Applicant had not been through OF11 and therefore no data was processed in respect of him. The Respondent agreed in light of this that no further inquiry was required to the French authorities. From the evidence I do not consider it to be a reasonable inference to draw that this Applicant gave false details to the French authorities. It could be that he was not apprehended, questioned or processed by the French authorities as he claims.
58. I take into account the evidence of AH. He is the Applicant's friend and has been for over a year. They see each other frequently. HS believes that his age has been wrongly assessed. I have taken into account that he has no experience of Age Assessments and limited life experience; however, I attach some weight to his evidence. It was not suggested that AH had lied to the Tribunal; rather that he had been misled by the Applicant. Ms Rowlands asked me to take into account that HS gave a huge smile when she suggested to him that the

Applicant was like a “Big Brother”. I do not find anything of significance in HS’s facial expressions and or demeanour.

59. The Applicant’s college lecturer Katie Sinfield supports that the Applicant is the age he claims to be noting that she had observed nothing to suggest that he was not the age he claimed to be and 17 years old at that time. Ms Benfield relied on the fact that no concerns were raised by the college about the Applicant being substantially older when being treated and educated as a 17 year old child. She said that this was probative. She said it was consistent with the written evidence of the Applicant’s former placement where no concerns were raised about his age. I attach some weight to this evidence.
60. The Respondent relies on the opinion of the Applicant’s former allocated social worker Gloria St Jean who noted in her observation report that the Applicant was “possibly late teens mid 20s” and in her statement that she thinks the Applicant is “at least 18-21”. Given that the Applicant was 17 years and eight months at the start of the Age Assessment on his claimed age and 18 years old at the point it was concluded, I accept that the lower end of her opinion is consistent with the Applicant’s claimed age.
61. Bolanle Aderoyeje is a support worker at Shebahl Skills and Support Services. She notes that her colleague Frederico Medeiros provided an observation report in the course of the Age Assessment and that she agrees with the observations that he made. She notes that she does not “have the authority nor qualified to provide you with the required age”, noting that the Applicant was referred to the placement as a 17 year old and was supported at the placement as such.
62. I accept that the evidence establishes that the Applicant has self-care skills which is capable of supporting the age attributed by the age assessors. There is evidence that he complained that he was not receiving a clothing allowance and was not allowed friends in his room. He has been observed by placement staff at Shebahl Support Services as rude and confident, independent and interacting well with adults. He has even been described as arrogant. At times he displayed anger during cross- examination and he stormed out of the Age Assessment. The evidence is suggestive of behavioural issues; some might opine that the Applicant’s conduct is typical teenage/young adult behaviour. This is a neutral factor as is the point about being smartpone/social media/internet savvy is a neutral factor.
63. The Respondent relies on the inconsistencies arising from what the Applicant said about contact with his parents and the date when he left Iran. While these are not decisive points, that are capable of weighing against the Applicant.
64. Having weighed the evidence I have reached a decision on the balance of probabilities. Pulling together the evidence before me, I find that it is more likely than not that the Applicant has knowingly not been honest about his age. Overall I conclude that it is likely that the Applicant has given a vague account in order to assist his case so that it is difficult to build a timeline. I find that it is more likely than not the Applicant is older than he claims to be and an adult at the material time. I attribute to him a date of birth of 1 July 2001. This makes the Applicant aged 22 at the hearing before me and aged 20 when he arrived in the UK.