

**IN THE UPPER TRIBUNAL**  
**(IMMIGRATION AND ASYLUM CHAMBER)**  
**(JR-2023-LON-001029)**  
**In the matter of an application for Judicial Review**

Field House,  
Brems Buildings  
London, EC4A 1WR



**Between:**

**THE KING**  
**on the application of**

JR-2023-LON-001029

**R K, By his Litigation Friend, Joshua Singer**  
**(Anonymity direction made)**

**Applicant**

**- and -**

**THE LONDON BOROUGH OF NEWHAM**

**Respondent**

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**Before:**

**UPPER TRIBUNAL JUDGE REEDS**

Ms K. Hafesji of Counsel, instructed by Osbournes Law, Solicitors for the applicant.  
Mr M. Paget of Counsel, instructed by the local authority, for the respondent.

Hearing date: 13-15 and 21February and 28 March 2024

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

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**Upper Tribunal Judge Reeds:**

### Introduction:

1. The applicant, a national of Iran, claims that he was born on the 1<sup>st</sup> Alban 1383 (Iranian Calendar) 23 October 2005 (Gregorian calendar) and was thus a child of nearly 16 years when he entered the UK on or about 12 October 2021. The respondent, following an age assessment completed on 18 November 2022 and set out in a report has assigned to him a date of birth of 28 March 2000 on the basis of him being over the age of 18 at the time of the assessment and that he was assessed to be aged over 18 at the time he entered the United Kingdom.
2. This judicial review challenges the age assessment decision on the ground that the applicant is the age he claims to be and, as part of that challenge, that the age assessment was not *Merton* compliant, and that the interview was procedurally unfair and that the reliance of the age assessment upon the applicant's appearance and demeanour was unfair and irrational.
3. The primary issue to resolve these proceedings is the applicant's age, which is in dispute between the parties. There is no dispute between the parties that the applicant is now an adult. The applicant has sought a declaration as to his age to establish that the respondent is required to continue to provide support and accommodation to him as a "former relevant child" which arises under the Children Act 1989.

### Anonymity:

4. An anonymity order had been sought earlier in the proceedings and neither party made any submissions that the order previously made should not continue and therefore I make an order for anonymity pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Unless the Upper Tribunal or a Court directs otherwise, the publication or communication of any information likely to identify the Applicant as a party to these proceedings is prohibited save for any communication to:

- a. Any employee, officer or contractor of the Respondent discharging a social care function;
- b. Any lawyer engaged by the Applicant or Respondent;
- c. Any officer, employee or contractor of the Secretary State to the Home Department discharging any function related to immigration; or
- d. Any support worker or charity engaged in supporting or advising the Applicant.

### The background:

5. The applicant's stated personal history is set out in a statement of agreed facts in the bundle detailed as follows. The applicant is a national of Iran, of Kurdish ethnicity. He states that he is from a small village in the Marivan Province of Iran. His village is

approximately 7 km from the Iraqi border. In Iran he lived with his parents and two siblings. His father died when he was approximately 10 years old. His father had worked as a shepherd and the applicant did not attend school but helped his father in his work as a shepherd. RK speaks Kurdish Sorani, but he is functionally illiterate.

6. RK's father was a shepherd who looked after around 50 sheep, of which he owned around 20, and around 30 belonged to RK's uncle. RK would accompany his father to work, and his father would teach him how to work as a shepherd.
7. RK's family was poor, but he always had enough to eat. His family owned their home and had basics like a cooker, a simple mobile phone without internet, but lacked luxuries.
8. RK has a paternal uncle, H, and a cousin, H's son Ali. H was wealthier than RK's family and owned a large grocery store. He supported RK's father with money.
9. When RK was around 10 years of age his father died. RK took over his father's job looking after the sheep, and his uncle would also help the family with money.
10. RK did not go to school. He did attend the mosque from the age of 6 or 7 for Friday prayers, and his parents taught him how to pray.
11. RK started to have hearing problems and migraines in Iran, after he fell in the mountains and hurt his head badly. His doctor in the UK has prescribed medication for these issues.
12. RK left Iran after delivering a package for the peshmerga. Two people who were armed approached him when he was working as a shepherd and started asking him personal questions.
13. Around 14 or 15 days later, the peshmerga returned. They asked him to take a box to a nearby village. RK delivered the box.
14. Following this, RK went to a friend's house with his cousin Ali. When RK was there, the intelligence services raided his home. His mother contacted his cousin and said that the authorities were looking for RK and it was not safe for him to return home.
15. Ali took RK to the border with Iraq and handed him over to a friend, who took him to Turkey. Following this, RK travelled through various countries on his way to the UK. He was fingerprinted on the way to the UK but cannot identify the country where this happened.
16. RK has suffered trauma as a result of the separation from, and lack of contact with, his family. He also faced a traumatic experience on the way to the UK, where he had to be rescued from the boat he was in to cross the English Channel.
17. RK arrived in the UK on or around 12 October 2021. He gave his date of birth as 1.8.34. He stated that his cousin had paid for him to leave Iran.

18. It is common ground that the applicant had no documentation with him when he arrived in the UK on the 12 October 2021. From the evidence disclosed from the Home Office, an assessment took place on his arrival by the Chief Immigration Officer.
19. There is reference to an assessment being undertaken at [137] where the applicant confirmed one was undertaken on arrival which recorded his age as 23 years of age. There is also an email dated 5/11/21 [138] referring to a "Merton assessment". It is further recorded at [116] that upon screening the Home Office believed the applicant to be 23 with a date of birth of 23/3/1998 ( and see [126]).
20. It therefore appears to be the position that the immigration officer and CIO recorded that in the absence of documentary evidence and based on the applicant's physical characteristics, demeanour and the IO's experience and the age assessment carried out by KIU it was determined that the applicant was 23 years of age with a date of birth of 28.3.1998 and he was placed with adults.
21. On 1 November 2021, a safeguarding referral was made by the British Red Cross to the local authority, and he was subsequently accommodated pursuant to Section 20 of the Children Act 1989 from 15 November 2021.
22. An initial health assessment was carried out on 16 December 2021.
23. The respondent local authority ("LA"), sought to undertake an assessment to assess his age which began in May 2022.
24. He was accompanied by an 'appropriate adult', and he was interviewed by the two social workers, who then produced the age assessment report following an initial meeting on 20 May 2022. The 2<sup>nd</sup> meeting scheduled for 22 June 2022 was postponed because the applicant was suffering with a headache. The final session was held on 6 July 2022, which included the "minded to" aspect of the process. The assessment was completed on 18 November 2022 and was provided to the applicant on the 24 November 2022.
25. The formal report was dated 18 November 2022. The report stated that the assessors had duly considered all the information available to them within this assessment. The assessors had also considered the principle of "benefit of doubt" but they formed the view that this could not be applied in this situation. They concluded that the totality of the information gathered in this assessment clearly suggested that R is older than his claimed age. The assessors concluded that R's age range is between 21 years to 25 years, with 22 years likely to be his age.
26. Thus assessing the applicant as being over the age of 18 when he first entered the United Kingdom on or around 12 October 2021.
27. It is that assessment, which the applicant seeks to challenge in these proceedings.
28. On 5 December 2022 RK's solicitors sent a pre-action letter challenging that assessment. On 20 December 2022 the Respondent replied, maintaining that its age assessment was correct.

29. This claim was issued on 22 February 2023, which included an application for interim relief in the Administrative Court.
30. On 18 April 2023, Richard Klayton KC (sitting as a Deputy High Court Judge) granted both permission and interim relief in these proceedings and ordered that the claim be transferred to the Upper Tribunal.
31. The applicant was subsequently accommodated by the local authority under section 20 of the Children Act 1989. He remains supported by the respondent.
32. Standard directions were issued by the Upper Tribunal on 28 June 2023 which included the disclosure and filing of documents. Further directions were issued pursuant to a consent order agreed between the parties by Upper Tribunal Judge L. Smith on 10 October 2023 and for the listing of the matter which then came before me for a substantive hearing.
33. The case was listed for a three day hearing commencing on the 13 February 2024. On the 15 February, the Tribunal heard the closing submissions of Ms Hafesji which were not completed until late afternoon and there was insufficient time for Mr Paget to provide his oral submissions in response. The hearing was therefore listed for his oral submissions to be given remotely.
34. The day before that hearing listed on the 21<sup>st</sup> February, the respondent served a copy document prepared by the Kent Intake Unit of an age assessment completed on the applicant's arrival in the United Kingdom. No further documentation had been provided although the court was informed that there were a number of emails which had led to the report being provided. The parties provided their submissions as to the initial documentation served the day before and whilst both advocates agreed that the evidence should be admitted, there was initially a disagreement as to whether the applicant would or should be required to give any oral evidence about the circumstances and content of that evidence in the light of the application made by Mr Paget for the applicant to be recalled to give oral evidence. During the submissions Ms Hafesji took instructions from her instructing solicitors and the some of the background to the report then became available, although the emails referred to had not been made available at that stage and it was later agreed between the parties that the applicant should file a further statement dealing solely with the circumstances of the assessment and that he should be recalled to give oral evidence. In light of that agreement further directions were issued.
35. Following those directions further evidence was filed by both parties. The respondent sent a further document in respect of the KIU age assessment and the applicant's legal representatives filed an application notice to file and serve a statement dealing with the procedural aspects of this earlier age assessment and for written submissions to be filed solely on this point. Directions were then issued for the respondent to file and serve any representations they wished to make on the application notice. No reply was received within the time scale set out in the directions although subsequently there was no disagreement with the filing of those documents and directions were again issued relating to the documents referred to in the application notice.
36. The hearing was listed on 28 March where further evidence was given by the applicant and the parties provided their final submissions.

The relevant issues:

37. The parties agree that primary issues for the Tribunal to determine are the Applicant's probable age and date of birth.
38. In order to determine those issues, the Tribunal should determine:
  - a. The credibility of the Applicant's account of his age and how he knows it, and the weight to be attached to his evidence in this regard;
  - b. Whether the Respondent's age assessment dated 18 November 2022 was lawful and, in any case, the weight to be placed upon the Respondent's age assessment;
  - c. The weight to be placed upon third party opinion evidence.

The legal framework:

39. The law in this area is settled and has not been an issue between the parties. Both advocates have set out the law in their respective skeleton arguments. I therefore set out a summary of the relevant legal principles.
40. Where the age assessment of the local authority is in dispute it is for the Tribunal or the Court to reach its own assessment of age as a matter of fact by reference to all material and evidence in the case, applying the balance of probabilities standard of proof.
41. Neither party has the burden of proving its case. Rather, the Tribunal will reach its own conclusion on the matter of the Applicant's age, see ***R (CJ) v Cardiff City Council*** [2011] EWCA Civ 1590 where at [23], Pitchford LJ said:

*'The Court will decide whether, on a balance of probability, the claimant was or was not at the material time a child. The Court will not ask whether the local authority has established on a balance of probabilities that the claimant was an adult; nor will it ask whether the claimant has established on a balance of probabilities that he is a child.'*

42. Accordingly, the Tribunal is not, primarily, concerned with whether the Respondent's assessment of S's age was lawful. In ***R (FZ) v London Borough of Croydon*** [2011] EWCA Civ 59, the Court of Appeal observed:

*'... the core challenge is likely in most cases to be a challenge to the age which the local authority assessed the claimant to be. Thus most of these cases are now likely to require the Court to receive evidence to make its factual determination. It is therefore understandable that Mr Hadden, for the respondent local authority in the present appeal, submitted that orthodox judicial review challenges are likely to be subsumed in the Court's factual determination of the claimant's age. If*

*the claimant succeeds on his factual case, the orthodox judicial review challenges fall away as unnecessary.*

43. In **R (B) v Merton LBC [2003] EWHC 1689 (Admin)**, Stanley Burnton J laid down guidance to be adopted by local authorities when undertaking an age assessment. This guidance was summarised in **VS v The Home Office [2014] EWHC 2483**:

- 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.' 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].*
- 12) *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]. 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.'*
- 13) *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])."*

44. In **R (AM) v Solihull Metropolitan Borough Council [2012] UKUT 000118 (IAC)** the Vice President of the Upper Tribunal held, 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.”

At [16] he added:

“.... Individuals who raise questions of the assessment of their age typically have a history, or claimed history, beginning with childhood and early youth in a country of relative poverty, continuing with a long and arduous journey that it is claimed to have taken place during their mid-teens, and concluding with the period living in a country of relative affluence such as the United Kingdom. So far as we are aware, no, no sufficient, work is being done to identify what effect such a history might have on their physical maturity at various dates. In particular (although we accept that we are relying more on instinct than anything else) physical maturity may be attained more slowly in conditions of poverty and malnutrition and that on arrival such person may look less physically mature than his chronological age might suggest. After his arrival it may be that physical changes take place more quickly than they would otherwise do, but it may be (or may not) be that a person with such a history is less physically mature than anybody might expect his age.”

The vice president addressed the relevance of mental maturity and demeanour at [19]:

“so far as mental development is concerned, it is very difficult indeed to see how any proper assessment can be made from a position of ignorance as to the individual’s age. Most assessments of mental development are, in essence, an assessment of whether the individual is at average, or below or above average, for his chronological age.”

He continued:

“so far as demeanour is concerned, it seems to us that 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. But we find it 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. They may of course be cultural difficulties in such interview but there are ordinary social difficulties as well.”

45. 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.”

The evidence:

46. The parties produced an agreed bundle of documents for the hearing contained in two bundles running from 3-296 pages ( the “core bundle”). In addition a supplementary bundle of documents was filed before the hearing which included social care records, Asylum and Immigration and Home Office records, other relevant local authority documents and correspondence. In a separate bundle the parties provided an agreed bundle of relevant authorities. There was also a schedule of agreed facts and issues submitted by the parties. As set out in the preceding paragraphs, further evidence was filed and served which related to an earlier assessment made by the Kent Intake Unit on the applicant’s arrival.



47. The applicant attended the hearing and gave evidence. Whilst Ms Hafesji confirmed that there were no issues of vulnerability in respect of the applicant within the meaning of the Joint Presidential Guidance note number 2 of 2010: Child, Vulnerable Adult and Sensitive Applicant Guidance, the proceedings featured regular breaks and the applicant was addressed with concern to ensure that he understood and was comfortable with the proceedings.
48. There was no indication that he had any difficulty at any point in understanding the proceedings or that he had any problems. I am satisfied that if there had been they would have been brought to the Tribunal's notice. The applicant had the benefit of a Court interpreter when giving his evidence in the Kurdish Sorani language. He also was assisted with by an interpreter who summarised the evidence of the witnesses that gave evidence before the Tribunal and also the closing submissions so that he could follow and understand the proceedings. He had provided three witness statements dated 22/1/23 [228], 30 August 2023 [259] and 28/2/24.
49. Ms Kiyemba, a social worker attended before the Tribunal and gave oral evidence and was cross examined and also Mr Singer was called to give evidence on behalf of the applicant and was cross examined by Mr Paget. There is also other written evidence in the bundle relied upon by the applicant which includes a witness statement from Ms Tait and two witness statements from two friends of the applicant, MM and EM.
50. I have also been provided with skeleton arguments from each of the advocates prior to the hearing and written submissions at the conclusion of the evidence and their oral submissions.
51. I further observe that the applicant is presently seeking international protection, so I do not make any findings of fact or observations on his claim. That is a matter that has been considered by the Home Office and will be decided on appeal to the First-tier Tribunal by application of a different standard of proof than applied in this matter.
52. When assessing the applicant's credibility, my assessment is being considered in the round, taking due account of the evidence presented with due allowance for the fact that many child asylum seekers will have problems in presenting a coherent account of their personal history and travel to this country.
53. The evidence given by each of the witnesses is recorded in the record of proceedings. I have carefully considered all of the evidence before the Tribunal, including the oral evidence of the witnesses that gave evidence. They were cross-examined and I have had the opportunity of observing them give their evidence. I also have regard to the other evidence before the Tribunal, but whose authors were not called to give evidence.
54. I have not considered it necessary to summarise all of the evidence in this judgment separately as the parties are plainly aware of it and I intend to refer to the parts of the evidence in the course of undertaking an analysis and assessment of the evidence and the findings of fact made. I have carefully read all the evidence, whether specifically referred to and summarised in this decision or not.

#### The submissions:

55. Both parties made submissions, adopting and expanding upon their skeleton arguments. They are a matter of record and I confirm I have taken them into account in my analysis of the evidence, even if not referred to. I am grateful to both advocates for the assistance they have given during the case.
56. Ms Hafesji relied upon her skeleton argument dated 30 January 2024, her written submissions dated 15 February 2024 and later written submissions dated 26 March alongside her oral submissions provided at the hearings on 15 February and 28 March.
57. In her skeleton argument dated 30 January 2024, Ms Hafesji set out a detailed set of submissions directed to a challenge of the local authority age assessment both in terms of procedure and substance. It was submitted that the reasons given for the decision were irrational and had failed to take into account relevant considerations, the decision was procedurally unfair in that it failed to put all adverse inferences to the applicant prior to making their decision rejecting his age and failed to make sufficient enquiries in the context of its statutory obligations. It submitted that the conclusion reached of his age was factually wrong and that his positive case on age should be accepted for the reasons set out between paragraphs 61 – 68 of the skeleton argument.
58. In her written submissions dated 15 February 24 as supplemented by her oral submissions, Ms Hafesji submitted that the applicant's account as to his date of birth should be accepted in the light of having given a clear and consistent account of how he knows his date of birth, and has been credible in his evidence in relation to his life in Iran, why and how he left and how he came to the UK and the contact he has had with his family since he left Iran. His evidence was clear without any contradictions, flaws or discrepancies. This was notable in the light that he has been consistent for the last 28 months in different contexts. It was submitted that the starting point is the credibility of the applicant's own evidence as to his age and that this was set out in his witness statement and that although he has not always known his date of birth he has known his age having heard people refer to it. He did not know what year he was growing up in but would be able to track "by the seasons.. and festivals throughout the year". She submits that the source of the knowledge of his age came from his family and that was consistent with evidence that in Iran dates of birth are recorded.
59. It was submitted that his account was plausible, internally consistent and consistent with a life described of growing up functionally illiterate, in a poor family, working as a shepherd and not attending school. The account given has been consistent since arrival in 2021 and in different contexts. There is no evidence of the applicant giving a different date of birth or a different account of his age and how he knows it.
60. By reference to the age assessment it was submitted that the evidence was weak and defective, and the witness evidence was based on the unreliable evidence of physical appearance and demeanour. Despite the case law emphasising the correct approach to determine the child's age which is to consider first the credibility of the person's account of their age, the applicant's account of how he knows his age was not challenged in cross-examination and was also a "striking omission" in the original age assessment. Whilst they asked him how he knew his date of birth they did not explore how he knew his age.

61. As to his account of how he knows his date of birth that was only briefly challenged on the basis that he heard the information second hand through his cousin. The account given by the applicant was consistent and plausible and the information was relayed as part of a wider conversation between him and his mother.
62. As to the issue of documentation, Ms Hafesji reminded the Tribunal that the applicant did not bear the burden of proving his age nor did he bear the burden of proving that contacting his family to obtain the shenasnameh would put them at risk and that all the applicant must show is that, on the balance of probabilities, he cannot contact his family in order to obtain documentary proof of his age either because he does not have the means to contact them and/or because he is prevented from attempting to contact them because of the credible fear of harm to himself or them. The applicant's evidence meets that threshold.
63. She provided detailed submissions on the points raised in cross examination relevant to whether or not the applicant had contact with his relatives and the issue of whether he had given his phone to his cousin. She submitted that the attacks on the credibility of the applicant's evidence and cross-examination did not undermine his account. It was submitted that on the balance of probabilities, the applicant provided a credible explanation as to why he could not obtain his shenasnameh and in the absence of such documentary proof of age, the starting point must be the credibility of the applicant's account of his age, and how he knows it, which had not been impugned by the respondent.
64. As to the issue of physical appearance and demeanour, it was submitted that a particular feature of the case was the heavy reliance by the respondent on witness evidence based solely on the applicant's physical appearance and demeanour which was a notoriously unreliable basis for assessment of chronological age and of limited value and also constitutes only "somewhat fragile material" and that evidence based on an individual's demeanour will "generally need to be viewed with other things" such as "discrepancies and inconsistencies in his account of how he knew his age" (see authorities set out in the footnotes at page 12).
65. Ms Hafesji set out the concessions made by Ms Kiyemba made in cross examination in relation to the applicant's physical appearance which, it was submitted, substantially reduced the weight to be given to the evidence that she gave as to his age ( see paragraphs 32 –33). It was further submitted that her evidence was also unpersuasive for the reasons set out at paragraph 34.
66. As to the other third party evidence, she submitted that the applicant relied upon the unchallenged evidence of his peers, MM and EM, and that such evidence was of assistance ( see AM v Solihull Metropolitan Borough Council (AA JR) [2012] UK UT118). The evidence was from participants of the interaction rather than from professionals observing interaction and whilst they are not experts in giving evidence on age, they are the best narrators of their own experiences. It tells the court that the individuals who are either the same age as the applicant or a year older, consider themselves to be interacting with their peer and not someone in their 20s as the respondent suggests.

67. The applicant also relied upon the evidence of Mr Singer, in relation to his demeanour during interactions and descriptions of the behaviour which he considered to be childlike and immature. The evidence given was credible, he had a good and supportive relationship with the applicant and stated that he had given evidence only where he had a genuine belief that the person was the age they claimed. His evidence was detailed and drew on real-life examples which was in contrast to the demeanour evidence given by Ms Kiyemba.
68. In supplementary closing submissions dated 26 March 2024, Ms Hafesji set out her submissions which were limited to addressing the disclosure received by the Home Office on 20 and 21 February 2024 concerning a “Short Merton Age Assessment” of the applicant carried out by the Kent Intake Unit on 13 October 2021.
69. In her oral submissions on 28 March 2024, she submitted that in relation to the KIU disclosure, the assessment was produced by a process which was procedurally unfair even if the local authority were not relying on that document as a record of age. The procedural fairness affected the reliability of the evidence as a record of what was stated and as a result it was not possible to place any material weight on its contents. The evidence was extracted from a process that was procedurally unfair. In addition, even if the document was obtained in a way that that was not procedurally unfair, the documents themselves were such poor record of what was said by him that the Tribunal should not place any weight on them. If those submissions were rejected, when assessing weight, the interview notes were broadly consistent with his age and how he knows it. Ms Hafesji submitted that the Tribunal should accept the date of birth consistently given by the applicant as 23 October 2005.
70. Mr Paget has provided a skeleton argument dated 5 February 2024 and written submissions dated 15 February 2024. In addition he provided his oral submissions on 28 March 2024.
71. In the first skeleton argument it was submitted that this is an unusual “no documents” case and that the applicant could obtain documentary evidence as to his age but had chosen not to do so. He had taken no steps to obtain details from the shenasnameh, and there was no evidence that contacting his cousin to obtain information would be in any way be risky for his cousin. That is especially so because he was in contact with his cousin and mother during his journey.
72. The skeleton argument set out the relevant law and in the context of physical appearance, Mr Paget submitted that in unclear cases, age could not be determined on appearance alone, but that physical appearance was still an important factor upon which great weight should be placed and perhaps even pre-eminent weight. As to the weight to be given to the age assessment, it was submitted that the traditional public law challenges set out in the grounds of the applicant only bite on the weight to attach to the assessment and whilst there may be slight inconsistencies and errors within the assessment it is was a thorough assessment based on the available evidence and should be afforded great weight. It was submitted that the claim would be decided by physical appearance and the applicant’s credibility.
73. The written submissions of the 15 February 2024 and his oral submissions given on 28 March can be summarised as follows. The Tribunal is tasked with determining the

applicant's age and the decision is made in the absence of any document supporting that claimed age. It is submitted that in those circumstances the credibility of his whole story is "the key", and the applicant has no credibility. It is submitted that this is not a case that would be decided because the age assessment may be undermined or because the applicant's witnesses are not independent but because his explanation for not providing documentary evidence is not believable.

74. As to the physical appearance of the applicant whilst there is no physical characteristic that is determinative it is appropriate to place significant weight on what someone looks like. The applicant like an adult man and has done so since October 2021 (see [290,293]).
75. When addressing the credibility issues, the applicant had a classic mobile phone which he used almost every day for 8 years and regularly called his cousin. He gave no explanation to the age assessors or in his witness statement as to why he did not have the phone even though the witness statement made no sense without it. The explanation given in evidence that his cousin took the phone as he left Iran was not credible and there was no reason for Ali to do this. Even if the phone were taken he could still ring his mother and his account that he did not know the number which was saved on the phone was not credible as he would know the home number. In the alternative he had a golden opportunity to get the number when travelling between Iran and the UK when there was a telephone conversation between him and his mother which lasted 4 minutes, yet he did not ask for the landline number. The explanation that he gave that he was excited was not credible.
76. As to social media the applicant has not used Facebook to obtain any of his supporting documents. Whilst he claimed that he did not want the Iranian authorities to know where he is, he was not willing to change from his position despite being shown the country material that the government cannot monitor Facebook. It could be used to contact his cousin to obtain the documents. Facebook shows that he is associating with adults.
77. Other credibility issues identified related to spending a large part of each day outside his accommodation during the Easter holidays of 2022 when the applicant was reticent about what he was doing. In August 2023 he stated he went out for walks in the park and to feed the birds but there is no credible explanation why he could not say that in April 2022.
78. As to how he was told his age, his account made no sense that his mother would ring his cousin direct of the danger and that in the middle of the conversation she would mention his age. The consequence of the version given is that the applicant's knowledge of his age is merely hearsay and is inconsistent with what he told the assessors that his mother told him his age. His mother would not know that he was leaving the country.
79. As to the evidence of Mr Singer it was submitted that he has had limited meetings with the applicant and when shown new observational evidence he was not willing to modify his view. He was not an independent witness, and he was one who gave substantial benefit of the doubt to participants in the Age Dispute Project.

80. Ms Kiyemba gave evidence not as an assessor but as the applicant's social worker and she gave observational evidence but was much more willing than Mr Singer to modify her evidence. Her evidence which was most helpful was how the applicant was at his accommodation and how he interacted with the local authority. The applicant had money and new clothes, and this could be because of exploitation or because he was working. There was no supporting evidence of exploitation, and it was much more likely that he had been working which was consistent with being an adult.
81. Mr Paget submitted that the explanation for not obtaining documents was not credible and the document would provide his age. He accepted that whilst the applicant was not required to produce documents, he had failed to do so, and this was "telling", and the issue needed to be assessed on the basis that it was objectively reasonable to produce documents concerning his age. It was necessary to assess why he could not contact his relatives, and that his account that he did not know the number because it was saved on the phone or that his phone was taken was not a credible account. His reasons for not contacting his family were also not credible therefore the challenge should be dismissed.
82. Mr Paget addressed the material from the KIU. He submitted that the evidence was not relied upon as evidence of determining the applicant's age and that the Tribunal should determine his age itself. He confirmed he did not disagree with the law relied upon in the applicant's written submissions. However that did not mean that what the applicant had said could not be relied upon as if his account were consistent the applicant would seek to rely upon it.
83. As to his explanation in his witness statement concerning treatment when in the Home Office accommodation his account is inconsistent. The applicant set out his witness statement that the trauma existed for a period of 4-5 days which was inconsistent with the first witness statement which described a "pleasant room". There is nothing in his account of staying in a tent or a different room and the 3<sup>rd</sup> witness statement did not say that he stayed overnight in the room, but he now claims, "I did say everything". If he was overnight in a room which was pleasant, he was well rested and there is no explanation for the claim that the interview was inaccurately recorded.
84. In the circumstances, the applicant is not given a credible account of his age and the claim should be dismissed.

Analysis of the evidence:

85. When beginning an analysis of the evidence and in the absence of documentary evidence of the applicant's age, the appropriate starting point is an assessment of the applicant's age on the basis of the credibility of the applicant's evidence. In that regard, I have considered his evidence and other sources of information including the evidence of other witnesses, the age assessment completed and have done so by taking into account the submissions of the advocates.
86. I begin with the position of the earlier age assessment undertaken by the Kent Intake Unit ("KIU").

The KIU age assessment:

87. In the documentary evidence contained in the agreed bundle reference had been made to what has been described as a “Merton compliant” age assessment undertaken with the applicant shortly after his arrival by 2 social workers [138]. It is also recorded that the applicant had been provided with documents following this [136] where he was asked whether he had a copy of the documents or any information about the circumstances of the assessment. Part of that assessment was later disclosed to the parties, albeit at a late stage on 20 February the day before the hearing was to be completed. It consisted of an MS Word document entitled RK 13/10/2021 age assessment interview notes for a meeting on 13 October 2021. Also included was an email chain and PDF document “RK age assessment cover sheet headed “ Kent Intake Unit short Merton cover sheet.
88. There was no dispute between the parties that the evidence was admissible evidence. Whilst the parties initially did not agree whether it was necessary to recall the applicant Mr Paget having made an oral application it was resolved between them that the applicant should do so and provide a witness statement. Following this further documentary evidence was provided as set out at paragraph 10 of the witness statement of Mr McMahon, which dealt with disclosure of the documents generally and was later followed by a witness statement from the applicant. Permission was also given for Ms Hafesji to file and serve additional written submissions addressing the disclosure received which was provided and dated 26 March 2024. The skeleton argument was supplemented by oral submissions at the hearing on 28 March provided detailed submissions on the documents disclosed.
89. In particular it set out the factual background to the KIU age assessment. The Unit carried out short form age assessments from 18 September 2020 until 15 January 2022 when the practice was discontinued. The age assessments were considered in R (MA & HT) v Coventry CC [2022] EWHC 98 (Admin) and on appeal in R(MA & HT) v SSHD [2022] EWCA Civ 1663. The High Court considered the guidance outlining the process for conducting the KIU age assessments which did not require an appropriate adult or a “ minded to “ process and found it be unlawful. The Court of Appeal resolved the issue by reaching a different view on whether the guidance required the KIU age assessment to be carried out without the safeguards of an appropriate adult or minded to process. Ultimately the Court of Appeal concluded that it did not ( see [51] and [53]).
90. At the hearing Mr Paget did not dispute any of that background evidence set out in the litigation and indicated that the respondent did not rely on the age assessment as evidence as to the applicant’s age. He sought to rely on the record of what the applicant had said as recorded in the interview notes on the issues of what he had said about his shenasnameh.
91. Ms Hafesji’s skeleton argument set out in detail why the age assessment was not “Merton compliant” and was therefore unlawful. It is unnecessary to refer to those

submissions in full because there was no challenge to them by the respondent and no submissions made in response to those matters identified in the skeleton argument. On assessing the evidence as it stands, and without further explanation by its authors, I have reached the conclusion that it is not evidence upon which I can attribute any weight.

92. Ms Hafesji identified a number of intrinsic evidential difficulties in those documents disclosed. Again it is not necessary to set them out because they are contained within that skeleton argument between paragraphs 20 – 24 and Mr Paget offers no response to them.
93. Dealing with the age assessment report itself, the report itself does not appear to be consistent with the other documents in the additional disclosure. There are examples where the statement in the report is not recorded in the interview notes and the report records an account of the applicant's journey which is not in the interview notes. There are also parts of the report missing, for example section 2 headed "decision on age" (on conclusion of assessment) is incomplete. The assessors have ticked the final box "clearly an adult" which required them to specify the assessed age/date of birth. However they did not specify an assessed age/date of birth although the note recorded the date of birth of 28 March 1998. Furthermore, section 4 contains multiple yes/no checkboxes which had not been completed and also where they require further information that is also not provided.
94. Looking at the interview notes themselves, the notes end in such a way that it gives the appearance that it is incomplete. Parts of it, but not all is of poor quality. Whilst there are grammatical errors and incomplete sentences, it must be remembered that this is a handwritten note and if taken contemporaneously will not always have the correct spelling or grammar but there are gaps in the questioning which are not explained, and the report provides or attributes statements to the applicant which do not appear in the interview note. It is not possible to know whether the interview note is complete, given its general difficulties and it is not known when the report was prepared. Nor is there any information from the social workers themselves as to how this assessment was conducted.
95. In light of those matters properly identified I place no weight on the age assessment report as evidence of the applicant's age. Nor do I place any weight on the contents of the reports where it points to credibility issues that are either adverse to the applicant or in favour of the applicant given the inherent difficulties with the procedure adopted, the contents of the documents themselves and also by reference to the timing of the interview.
96. The only matters that arose from the document which I consider can be fairly taken into account relates to the oral evidence of the applicant, where he was cross examined about the events relating to the circumstances prior to the interview taking place. The applicant's third witness statement provided an account of his arrival in the UK having crossed the sea from France by small boat without a life jacket. He



recalled 5 to 6 agents who forced them on the boats; 2 of them had knives and were threatening them. The boat was very overcrowded, and they had to scoop water out that was coming into the boat. They were terrified that the boat would sink, and he thought he might die on the crossing. He was freezing cold and soaked through with seawater and spent several hours on the ship before taken to land feeling freezing cold, tired and hungry ( see paragraphs 4 – 5).

97. Following this he gave an account of what had happened on arrival at Dover between paragraphs 6 – 14 of his statement which set out very poor conditions in which he was kept such as on a coach for 5 to 6 days, being taken to another coach with other young people to a building without external windows in which they were locked.
98. Having considered the evidence both oral and written, the applicant's account of the conditions in which he stayed is not consistent with that which he had previously set out in his first witness statement at [234; paragraph 34], when describing the conditions and the chronology of events. The account was entirely different. He described after arrival he had been on a bus for 5 to 6 days and then taken to another room with other people who were about the same age. He stated "it was very pleasant in the room " and that he had stayed there for 4-5 days before being interviewed.
99. There is no reference to any poor treatment of the type described in the 3<sup>rd</sup> witness statement. His explanation was that at the time he made the first statement had not been asked to give information in detail. Whilst it might be correct that the third witness statement was expressly concerned with the issue of the age assessment interview which involved the earlier circumstances of his arrival and the first statement was related to all relevant issues, that does not explain the inconsistent evidence given by the applicant in his oral evidence as elicited in cross examination. The applicant could not give a clear or consistent account of what had happened in terms of where he was, for how long or what conditions. This was not improved by questions asked by his own counsel or by me, when trying to clarify what had happened and in what order and where. There was no reference in the written evidence of staying in a tent or in a different room, which was his evidence. Nor was there any reference to him staying overnight which was a feature of the oral evidence.
100. I have looked at the contemporaneous notes and the social care notes which record conversations with the applicant shortly after his arrival and there is no record of any conversation with the applicant that records those events. On 1/11/21 there is a note where he was alleged not to be eating and sleeping and was fearful about his accommodation (at [124]). There is a similar record taken on 3 November 2021 ( at [126]. On 4 November 2021 in a telephone conversation which took place he was asked about his experiences when he arrived, and he stated he had attended one interview, and he was interviewed by 2 women and an age assessment was completed. There is no reference to the conditions in which he was interviewed in that conversation (see [136]).

101. However I would accept that the conditions for those who arrive in Dover may be difficult for a number of reasons principally the numbers that are arriving and the necessity for them to be properly identified and interviewed by the officials.
102. While the account given of the circumstances immediately prior to the interview is not consistent with his previous account, I take into account the circumstances of his arrival when assessing the surrounding circumstances. The applicant had previously given a description of the traumatic journey undertaken by him before arriving in the UK. This is consistent with what is known of those arriving on small boats and it is also consistent with the contemporaneous evidence provided in the social care notes where there is a recording of what the applicant had said about his conditions. He had recounted his journey to his key worker ( at [157]) as one that was “very perilous” that put his life at risk. He described frozen lorries and fragile boats, and it is noted that he recalled “ a near death experience”. At [195] during a medical assessment he made reference to having flashbacks from his past. It is also recorded in the age assessment, where he referred to “bad things happened”; he had been for a period of 4 days without eating and drinking on the boat and there were problems in travelling by sea ( at [146]).
103. For those reasons, all other aspects of the evidence in the report and the interview I do not consider can be viewed as representing accurate responses of what he said in view of the intrinsic problems identified in those documents which also includes the evidence about the shenasnameh. This is not evidence upon which I can draw any safe conclusions either against or for the applicant. In the end, once the evidence had been disclosed in its entirety and has been viewed in the context of the litigation and the other intrinsic evidential difficulties identified, that evidence does not assist me in determining the credibility of his age.

The age assessment dated 18 November 2022:

104. The submissions made on behalf of the applicant seek to challenge the age assessment carried out by the local authority on the basis that the assessment is unreliable, it was carried out unfairly and was thus not “Merton compliant” and as a consequence little or no weight should be attached to the age assessment in reaching a decision on the applicant’s age .
105. The age assessment report was written by two social workers who undertook the assessment, at [136] to [170] of the agreed bundle. The age assessment was carried out over two sessions; 20 May 2022, 22 June 2022 ((which did not go ahead due to illness) and 6 July 2022. Also present at the age assessment was an appropriate adult and interpreter. The qualifications and expertise of the assessors is set out in the assessment.
106. The applicant’s language was confirmed to be Kurdish Sorani as the applicant’s first language. The role of the interpreter was explained and the applicant confirmed that

he was able to understand interpreter fully and was happy to have them present to interpret for him. It was made clear by the assessors that if at any time during the assessment he felt he was struggling to understand, or be understood, then he should say so and arrangements would be made for a different interpreter to be present.

107. At the first session the purpose of the age assessment was also explained to the applicant so that he was fully aware why and how they would be clarifying his age and the process of the assessment including the need to ask questions about his family, childhood background, education and the events to him leaving his home country. It was acknowledged that it may be difficult to discuss these issues and that breaks, or drinks could be taken whenever needed throughout the assessment.
108. The assessment is carried out under a number of headings, “physical appearance/demeanour”, interaction of the person during assessment, social history and family composition, developmental considerations, education, independence/self-care skills, health and medical assessment, and information from documentation and other sources, which included a brief summary of the feedback from the professionals that have supported the applicant. The “minded to” session was held on 8 July 2022 and following this the age assessors set out their analysis of the information gained.
109. The analysis of the information gained is set out at section 9 [164-165]. The reasoning is summarised at page [186]. The conclusion reached was that the assessors having considered all the information available to them within the assessment reached the conclusion that the material “clearly suggests that R is older than his claimed.” The assessors concluded that the R’s age range is between 21 years to 25 years, with 22 years likely to be his age .
110. I therefore turn to consider the age assessment conducted by the local authority. In R(A) v London Borough of Croydon (Rev 1) [2009]UKSC, at [33] Baroness Hale observed:

“.. The better the quality of the initial decision-making, the less likely it is that the Court will come to any different decision upon the evidence.”
111. Turning to the age assessment, it is not the purpose of this judicial review to assess the legality of it, save to the extent that it is necessary to consider what weight to attach to that analysis undertaken. Thus any failures in the conduct of the age assessment itself go primarily to the weight the conclusions of the document attract in the assessment of the tribunal( see SB v Kensington and Chelsea RLBC [2023] EWCA Civ 924 at [86]). It forms part of the evidential landscape to be ascribed weight as appropriate and to be considered as part of the overall review of the evidence in the round.
112. Where the age assessment of the local authority is in dispute, it is for the Tribunal to reach its own assessment of age, as a matter of fact ( see R (A) v Croydon London Borough Council [2009] UKSC 8).
113. There are specific criticisms made of the assessment as set out in the skeleton argument and the submissions advanced on behalf of the applicant. It is submitted on

behalf of the applicant that there was procedural unfairness during the age assessment. In particular that the applicant was not given the opportunity to respond to it at the third interview as part of the “minded -to “meeting. This is the aspect of the process whereby adverse inferences are put to the individual applicant a final decision.

114. I shall consider and address the criticisms made in the context of the evidence.
115. There is no statutorily prescribed way identifying how local authorities are obliged to carry out age assessments and the law proceeds on the basis that the most reliable means of assessing the age of the child or young person in the circumstances in which no documentary evidence is available is by a “Merton compliant” assessment (see R(B) v Merton London Borough Council [2003] EWHC 1698 (Admin) confirmed by the Court of Appeal in BF(Eritrea) [2020] 1 All ER 396 at [53]).
116. In R (HAM) v London Borough of Brent 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.
117. Swift J 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 those 3 general considerations at paragraphs [10]-[11] of his judgement. They are summarised as follows (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".
118. It is therefore submitted on behalf of the applicant that the process was unfair, and that the respondent breached the requirements of procedural fairness. I have considered those submissions in the context of the evidence.

119. According to the documentation, the last session with the applicant was held on 6 July 2022 and was called a “minded to” session ( see [161]). The assessment report set out the introduction to the applicant ([161] and clearly stated that “we have asked you many questions as part of the assessment. You have provided us with your responses/answers. We have also gathered information from some of the professionals that work with you. However, upon looking at all the information we have gathered to date; we are of the provisional view that as at the time you arrived in the UK, you were older than 18 years. As a result, we would want you to clarify some issues that will help us to either change or maintain our current provisional view about your age, as at the time you arrived in the UK.”
120. It is clear that the applicant was told that the view that the age assessors had formed was a “provisional view” that at the time of entry he was over 18 years, which could be changed or altered. Following this introduction, there were 12 questions asked as part of that process ( see [161 – 164]. Having considered those questions asked they centred upon the issues identified. The first questions ( 1 and 2) concerned his date of birth and how he knew it. The date of birth that he had previously confirmed, led to a further question that as he previously confirmed that it was his mother who had told him his date of birth and also had confirmed that his mother could not read and write, the applicant was asked how she would be able to accurately tell him his date of birth? The applicant gave the response “ every mother, not even educated, can tell their children’s date of birth. Not only my date of birth, she also knows my brothers and sisters date of birth.” Whilst he was not challenged further it was plainly a question that centred upon relevant aspects of his account.
121. Questions 4 and 5 related to previous answers he had provided relating to his education. The applicant was not left in any doubt that the age assessors were suggesting that what he had said was inconsistent with the information he had given as demonstrated by the question “given your siblings were attending school in Iran at the time you left the country, assessors are of the view that you could have had some form of formal education in Iran...” The answer recorded, “no I did not attend school”. It is right to observe that the answer was not followed up by the age assessors.
122. Questions 6 - 9 challenge the credibility of the applicant’s responses about his family and their inability to fund his education and general financial resources. The applicant was able to provide his responses to those questions. Question 8 put to the applicant an inconsistency in his previous account about his father’s work which the applicant was able to answer. Question 10 was also a question when read plainly sought to challenge his credibility as to how he knew his date of birth on the basis that the assessors were of the view that he had been coached to claim that date of birth. As regards question 11 I would agree that the applicant was not asked in detail about the views given by the other professionals, it was a general question which outlined to the applicant that others had formed the opinion that he was older than his claimed age.

123. On balance, the questions when read in their context were mainly questions which did seek to challenge his factual claim although on a fair reading of them many could be viewed as open questions rather than questions which expressly put adverse inferences to the applicant for a response. While each and every point was not put to the applicant during the “minded to” process, he was given the opportunity to respond.
124. I do not reach the conclusion that the age assessment was flawed on the basis that it was procedurally unfair. Mr Paget submits that the traditional public law challenges that are set out in the applicant’s grounds between 1 – 3 only bite on the weight to attach to the assessment. I agree. In my view, the more relevant issue is the weight that should be attached to the report when seen in the context of its analysis and reasoning.
125. Mr Paget on behalf of the respondent further submits that in this context great weight should be attached to the age assessment as it can be seen as a thorough assessment based on all the available evidence.
126. The age assessment is part of the evidence, but it does not enjoy any special status. It is evidence of the considered view of usually 2 experienced social workers and thus properly forms part of the evidence of the case which is to be considered “in the round”. What is of greater relevance is the quality of the decision-making and thus the reasoning and analysis which formed the conclusion.
127. As to the reasoning underpinning the age assessment, Mr Paget on behalf of the local authority provided generalised submissions on the basis that whilst Counsel for the applicant might point to slight inconsistencies and errors within the assessment, the age assessment when viewed was a thorough consideration of age ( see paragraph 31 of the skeleton argument). On behalf of the applicant, Ms Hafesji set out her criticisms of the report in the original application for judicial review and in her first skeleton argument. Mr Paget did not offer any submissions on the points raised. I have considered the points raised in the context of the evidence.
128. It is common ground that the applicant did not provide any documentary evidence nor any supporting evidence to demonstrate his claimed age. Consequently the age assessors were required to consider the information given by the applicant in response to the questions that they asked.
129. The analysis of the information gained is set out at section 9 [164-165]. The reasoning is summarised at page [186] as follows:
1. The possibility that the applicant’s date of birth may have been made up.
  2. The financial status of the applicant’s family members.
  3. The applicant’s level of educational attainment.
  4. The applicant’s claim that he did not know the date he started his journey and the duration of his journey from Iran to the UK.

5. The applicant's attempts to prevent the assessors of establishing a credible timeline of his journey.
6. Inconsistency in the applicant's account about working in Iran.
7. Developmental consideration/physical characteristics of the applicant.

130. As regards specific matters raised from the age assessment which were said to undermine his credibility, one of them relates to the applicant's account as to whether he had given a consistent account about whether he worked in Iran. The reasoning is set out at [167], where reference is made to the applicant providing details to the age assessors that he did not work while he was living in Iran (on 20 May 2022). He also stated that in Iran children are not allowed to work. It is recorded that on 6 July 2022, he told the assessors, that after the death of his father he started working in his paternal uncle gave the money earned by shepherding sheep to his mother.
131. When looking at the answers given on the 2 separate dates, the account given is consistent as on each date he said he did not work in Iran as in Iran children were not allowed to work. When interviewed on 6 July 2022 he stated that he worked after the death of his father ( see p226). On any fair reading of the questions and answers given they were not inconsistent with that account but could rationally be viewed as providing further explanations for his social background. He was asked if he was involved in any paid job the applicant responded that he did not have any but that "sometimes going with dad.. Working as a shepherd.. ( See 20<sup>th</sup> of May 2022). He later said he went with his dad 2 to 3 times the week and when asked if he was given pocket money he replied "yes – sometimes. As I told you we are a poor family."
132. It is clear from those responses that the applicant was saying that he did not work in view of his age as a child but also that he helped his father. The reason for pursuing that line of questioning was to ascertain whether the applicant had any job or employment in Iran and would therefore have a bearing on his claimed age. When looking at the questions and answers given on 6 July 2022, the applicant gave further answers as to his family circumstances. He explained that his uncle had supported the family because his father had died and that he did not attend school. When asked if his uncle gave him a salary for looking after the sheep his response was "money was given to mother – expenses". When the answers are viewed together, there is no inconsistency in the applicant's account given on those 2 dates.
133. In that same section, the age assessors stated that " the fact that R could not remember the year that his father died. As R stated that this happened when he was a child. Whilst taking into account that he had earlier stated that he forgets past events the assessors thought that at least they would expect from him is to know either the year his father died or his age at the time of the event" ( at[167]). When assessing the evidence, on 6 July in the "minded to session" the applicant was asked about the year his father died and the recorded response is "I was a child then, I do not remember the year" ( at [163]). However it is recorded at [143] "he stated that his

father died when he was about 10 years old and that his father died of natural causes.” The applicant therefore did provide an account as to his age at the time of his father’s death. There is no inconsistency in that account, and he did provide evidence of his age at the time of that significant event.

134. The age assessors also identified that his credibility was undermined by his level of educational attainment. In essence, at [166] they were not satisfied that he had been honest about his level of education in Iran. The rationale is that he is not telling the truth about his level of education as questions on this issue would make it difficult for them to calculate his past lived experiences by stating “I did not attend school”. When assessing that reasoning, the applicant’s evidence has been consistent that education is free in Iran but did not agree that it was compulsory. The age assessors when addressing this looked at general information relating to education in Iran are set out in the footnote. However he stated he did not attend school because of the family’s “poor finances”. It was considered that this was not plausible given the amenities the applicant’s immediate family had access to. Those amenities appear to be the landline phone, cooker and living on a small farm. It was also based on his educational attainment in the UK and on the basis that he had demonstrated a greater level of educational attainment in the UK to demonstrate that he had not told the truth about his level of education in Iran. Reference was made to the difficulties in the initial stage of learning English as a foreign language and that students struggle with coping with the pace of learning and that he had sat exams in ICT, maths and English and had passed them.
135. I observed that the pathway plan that is referred to in the reasoning at [166] does not appear in the documentary evidence and the social care notes do not refer to passing the examinations. There is one reference at [157] which refers to his level of English as being low and that he was working at entry 1 functional skills. As it is not known what his level of English was in January 2022 it is not possible to assess whether the age assessors were able to reach any conclusion on that evidence. At best, the applicant’s own account is that he did not have any education whilst in Iran. By the time of the age assessment in May-July 2022 the applicant had been attending ESOL classes but the level of complexity of the examinations that he passed in January are not actually known.
136. The reasoning at [166] also identified that his account of not attending school because of poor finances of the family members was not likely to be plausible given the amenities that the family had access to in the family home. That was linked to the earlier reasoning at [166] which expressly referred to the financial status of the family. They concluded that the scenario that the applicant had tried to paint was a false picture of poor finances of his immediate family members.
137. The applicant has been consistent in his account that he did not attend school due to having to work. This was set out in the IHA undertaken in December 2021 which was recorded 6 months before the age assessment.



138. Furthermore, the applicant's account is consistent with the country materials relevant to Iran and in particular those of Kurdish ethnicity ( see Kurds CPIN; Iran, Kurds and Kurdish political groups version 4.0 May 2022 [435]). At paragraph 4.1 "access to Kurdish education", it was noted that state schools do not offer education in Kurdish, which is available only to students through private classes, reducing the accessibility and affordability of Kurdish education. The government has also placed restrictions by making it a requirement that teachers obtain state permits to teach the Kurdish language. The special rapporteur is also concerned about the reported persecution of Kurdish language teachers, including one young female teacher.. who was arrested and detained by the Iranian authorities on 23 May 2019 for organising private tuition without a permit." Under section 5.1 relating to employment it was noted that, "the provinces in which Iranian Kurds are concentrated relatively underdeveloped economically and have some of the highest rates of unemployment in the country." At [437] at 7.2.1 the USSD human rights report for 2021 noted that minority groups including Kurds, reported, "... Political and socio-economic discrimination, particularly in their access to economic aid, business licenses, university admissions, job opportunities, permission to publish books on housing and land rights.. At 7.2.2, it is recorded that Amnesty International in its report for 2021 echoed the prejudice faced by Kurds, as well as other minorities, stating that they... "Face discrimination, curtailing their access to education, employment and political office."
139. The reasons given for not believing the applicant's account that he grew up in a poor family are difficult to follow. One reason is that he told the assessors that on some occasions they went to bed hungry due to lack of food but that this was undermined by his account that his paternal uncle had a grocery shop. When looking at the contemporaneous notes [175] he was asked "when you were growing up did you used to go to bed hungry or without food?" He replied, "I can tell you we used to eat only one meal a day." The suggestion of him going to bed hungry was that of the age assessors. In the "minded to" session, it was suggested to him that he had said he went to bed hungry. The response recorded was that he denied saying that he went to bed hungry. The food was reasonable. There is no inconsistency there and even if there was it is of little significance. I also see no inconsistency in his account of his social background by reference to the amenities they had such as gas cooker, a small farm and some sheep. The fact that some are poorer than others does not mean that the applicant is not telling the truth about his own circumstances. When the reasoning is analysed on these 2 issues, there is no explanation as to why having access to those basic amenities is inconsistent with the account given by the applicant of having to take on his father's shepherding duties after his death which prevented him from accessing education, and when seen in the light of the country materials cited above.
140. The age assessors identified as a credibility issue relevant to his age that he did not know the date he started his journey and how long the journey took ( at [166]). This is linked to the other area of reasoning where they considered the applicant prevented them from establishing a timeline of his journey. The assessment records that on 20 May 2022 he told the assessors that he did not know the date he started his journey from Iran to the UK but later told them that the journey took him 20 days to complete.

That information is taken from [145]. The assessors undertook a basic check which suggested that from Iran to Dover it was a distance of 5816 km and that the applicant had stated he had covered this distance by walking, travelling in a car, travelling in a lorry and travelling by boat from total period of 20 days. It was not suggested that such a distance could not be covered in the time estimated. Nor was there any information as to how long such journey would take by those methods. However as noted by the age assessors, the applicant was able to give a vivid summary of his journey timeline. This was set out in the assessment at [145] where details were given journey. That is supportive of the applicant's account, as his claim was that he spent most of the time hidden in the back of a covered lorry. That was also an account given by him at the IHA undertaken in December 2021 as recorded at [195] not being aware of where he was and that he was not allowed to leave the lorry. Part of the reasoning given relates to the applicant's account that he was arrested and fingerprinted but did not know the country it took place. The age assessors considered that it would be reasonable for the applicant to know the name of the country, for example by observing the country's flag being displayed at a border point. They concluded his claim lack of knowledge could be a deliberate attempt to prevent them from establishing a credible timeline on the basis that he had been coached by unknown persons to say he did not know the country to enable his journey timeline to be credible when in reality it could have been longer (see [167]).

141. It is right that on 20 May and 6 July 2022 he told the assessors he did not know the name of the country that he was arrested and fingerprinted in. His account was that he was provided with the Kurdish Badini interpreter he could not understand. In his oral evidence, he was not asked any questions about his route or what had taken place during his arrest. I would accept that the applicant would not necessarily be able to recognise or identify the country that he was in by seeing any flags at the border point or anywhere else. That is not consistent with his background and lack of education. There are many who have received an education and who are not able to recognise flags and the countries represented by them. However, there is some supportive evidence of being coached at ([240]; paragraph 65 of the applicant's witness statement). The applicant refers to being told to say that he was from Iraq and not Iran, and also told not to say he was a child. He states, "he also said that if I said I was a child then they would keep me in this country and I would not be able to go with him anymore, so I should say that I was an adult. I do not remember what age I said, but it was an adult age. I did not tell the age assessors this because I was scared that they would say I was an adult if I told them that the agent made me say this." He goes on to say, that this was "the only time that had been told what to say by an agent." This is consistent with what he had said to the KIU (p32) which he accepted was an accurate record. Therefore there is evidence that he had been told to say something which was not true and is consistent with the description of being "coached".
142. A relevant consideration that was not taken into account, is that there is general evidence of children being told to give misleading information to the authorities when in transit often following the directions and orders of those who are involved in their journey and by the adults who surround them. The full extent of the impact of giving

inaccurate information has not usually been explained to them. However this is a matter relevant to the applicant's credibility, and a factor identified in the age assessment.

143. The reasoning also refers to the possibility that his date of birth may have been made up. The assessors refer to the applicant's answers in the assessment that he first became aware of his date of birth after being told this by his mother as he was about to leave Iran. Reference was made to having a shenasnameh (ID document), but that he did not see this as it was always with his mum. The assessors took into account that his mother could not read and write and acknowledged that even parents when illiterate could be able to know the date of birth of their children as they are likely to link this remarkable date with an event that happened a few days before or after the birth of their children. However in the applicant's case, he had tried to justify his claimed date of birth by wanting the assessors to believe that he does not have contact with his immediate family members. The assessors go on to say that it is expected that since he is able to use social media he could use it to contact his family members and friends to send his copy of the document which could verify his age. They conclude other young people have been able to do so but in his case he was reluctant to do it because the biometric system was likely to prove that he had made up his claimed date of birth.
144. I would accept the submission made on behalf of the applicant that when reaching their concluding analysis at [166] the age assessors failed to take into account all of the answers and reasons given to them as to why he did not take steps to obtain his document. Whilst they took into account his claim that he had no contact with his family, the other reason that he had given to the age assessors was that he had not done so because he did not wish to cause trouble for his family (in the context of putting them at risk from the authorities if he was in contact with them). This is reflected in the age assessment notes at [202] when answering the question why he did not maintain contact with his relatives, by stating "the reason I do not contact them is that I do not want to make trouble for family relatives and friends in Iran." Again this was not a new account or reason and was one shared with the IRO who recorded this at [159] and that he was worried that if he were to reconnect with them it may potentially put them in danger.
145. The last section of the reasoning is under the heading "developmental consideration/physical characteristics". On their assessment they found that his physical and secondary sexual characteristics were prominent and that he appeared older than his current claimed age of 17 years. In fact at the date of the assessment in May- July 2022, on the date of birth given the applicant would have been 16 years having turned 16 in October 2021. They observed his tone of voice was deep and there were indications that it had already broken. He was described as having an Adams apple which is indication that he was not a teenager. As to his demeanour and behaviour, whilst they stated he did not present as confident, he presented as an adult in the way he related with the professionals. This must be a reference to the information collated from other professionals who had worked with the applicant and

had contact with him. They further observed that he had unshaven facial hair which was thick and thus was an indication that he was not a teenager. Reference was made to him having undermined his oral account of starting to shave his facial hair after arriving in the UK as he had told them that he started shaving his beard a year and 3 or 4 months ago. They noted that the stubble on his face and his physical presentation on 6 July 2022 noted that he presented with full beards and a moustache as well as the thickness of his moustache suggesting that he had been shaving his beard and moustache for a considerable number of years. Having taken that evidence into account they reached the conclusion that those developmental considerations and physical characteristics made the assessors question his claim that he was currently 16 years of age.

146. The relevant guidance refers to matters such as presence of hair on an individual's body being affected by matters of ethnicity and genetic background. Whether an applicant has a broken voice or not or an Adams apple may not assist in determining the issue of age as recognised in the authorities previously cited. No evidence had been given to support those matters. However it is not unreasonable or irrational for the age assessors to take into account the applicant's physical characteristics and developmental considerations provided they are not determinative of his age.

The applicant's evidence:

147. When beginning an analysis of the evidence in the absence of documentary evidence of the applicant's age, the appropriate starting point is an assessment of the applicant's age on the basis of the credibility of the applicant's evidence. In this regard I have considered his evidence and other sources of information including evidence of other witnesses, background material and the closing submissions made by the advocates.
148. Through my consideration of the evidence I have taken into account the likely difficulties the applicant may have experienced and the cultural differences that there are likely to be, and I have been careful not to proceed on any assumption or view the evidence from a western or UK perspective. I again remind myself there is no burden on either party.
149. It is submitted on behalf of the applicant that his evidence as to how he knows his age is a credible and consistent, in particular, the evidence demonstrates that the applicant provided the same date of birth throughout his time in the United Kingdom in his interactions with the statutory and non-statutory services. This is taken from the relevant records. Shortly after his arrival on 12 October 2021, the applicant gave a date of birth recorded as 1/08/1384 (Iranian calendar) translated as 23 October 2005 [284SB]. Alongside that is the recorded date given by him in his conversations with the local authority where the same date of birth was given on 4 November 2021 and 16 November 2021 [150SB]. There is also no dispute that this was the date of birth

given to the age assessors at the first meeting on 20 May 2022 [173]. There is no evidence of the applicant giving a different date of birth over a significant period of time where he has been involved with and questioned by a range of individuals both outside and within the statutory services.

150. Whilst the applicant has given that date of birth whilst in the UK and has been consistent in that, the issue arises as to how he knows his date of birth and the credibility of his evidence in that regard alongside his credibility in other parts of his evidence.
151. I turn to the evidence given during age assessment. On 20 May 2022 he told the assessors that he became aware of his date of birth for the first time after being told by his mother just as he was leaving Iran [142]. It is further recorded that he confirmed he did not know his date of birth before this time. When asked if he had seen any document with his date of birth written on it, the recorded answer is in the affirmative and that he had a Shenاسنامه ( ID booklet issued at birth) but that he did not see it “it was with my mum”. When asked why he did not see it, he responded “I do not know, it was always with my mum.”
152. By reference to documents available the assessors asked him whether his parents had registered his birth at the local civil registry on the basis that the objective country materials demonstrate that following a birth parents are expected to register the birth within 15 days. He confirmed this had been done as he had a “Shenasنامه” [142].
153. The applicant was asked further questions on 6 July 2022 [161] to confirm his date of birth and when was the first time he knew of his date of birth and in what language? The response recorded is “I first knew my date of birth just before I left the country, and the language is Kurdish Sorani.” On further questioning it was suggested to him that he had previously confirmed it had been his mother who had told of his date of birth but that he had also confirmed that she could not read or write, and he was asked if that were the position how could she accurately tell him his date of birth? The response recorded, “every mother, even not educated, can tell the children’s date of birth. Not only my date of birth, she also knew my brother’s and sister’s date of birth”[161]. It was later put to him, “ from the way you answer the questions regarding your age it appeared to the assessors you were coached to claim the date of birth (23<sup>rd</sup>/10/2005) and he was asked for a response. It is recorded, “I knew my date of birth in Iranian calendar, but the social worker had converted it to the UK (Gregorian calendar). He also stated that when he arrived he gave the date of birth 1/8/1384 [163].
154. When assessing the evidence from the applicant it is his case that he has not always known his date of birth. This is based on firstly, what he said to the age assessors as set out above and secondly, that he had never seen this document other than the cover and therefore had not seen its contents (oral evidence and [235]).

155. Whilst he has not always known his date of birth, it is his evidence that he has known his age. The evidence is set out in his witness statement at [234].

“I was born in early autumn, on the 1st day of Aban, the eighth month. I have not always known my date of birth. I did not know what year I was born in until much later in my life. However, I have known my age for as long as I can remember. Since I could speak I have heard people refer to my age. I did not know what year it was when I was growing up, as it was not important to me or my family and did not affect our lives. However, I was aware of the passing of time and the passing of the year. I kept track of time by the seasons. We celebrated several festivals throughout the year. We celebrated two Eids, Nowruz, which is the new year, and Sizdah Bedar. This helped me to keep track of the passage of time. I did not know exactly when these were, but my mother or my uncle would tell me when a festival was coming up”.

42. We did not celebrate my birthday every year, however I do remember that my birthday was celebrated sometimes. I remember there was a celebration for my 13th birthday, and before this my birthday was celebrated sometimes. It did not happen every year, just from time to time. I do not remember those earlier birthdays well, I just remember that my family would get together and eat something special, and people might clap and be happy. We would usually eat a dish of meat, rice, and beans. I liked that dish and was always happy when it was made. I did not know when my birthday was coming up, it was always a surprise. As I said, I did not keep track of the calendar, it was not important to me, so on the days my birthday was celebrated I did not think to ask my parents what day and month it was. It just was not important to me. When these celebrations happened, it was in autumn, but that is all I knew.

43. However, on two occasions, there was a big birthday celebration at our home. By ‘big’ I mean more than just a gathering with special food. The first was for my sister Aya. It was when she turned 8 years old. I do not remember a celebration like this happening before, and the reason I think it happened was because my sister’s birthday was in the same season that my dad had passed away. Everyone was devastated, no one can understand what it was like for my family at this time. My mum I think wanted us to do something happy, to cheer my sister up, after such a sad thing had happened. It was extra special because we bought Aya some presents, even I did. I asked my mum for some money and used it to buy her a doll and a red teddy bear. I was 10 at this time.

44. This time was very difficult for me. I was the oldest child, so I had to take on a lot of responsibility when my dad died. I had to make sure that Aya and Zhwan were okay and comfort them when they were feeling sad. Aya did understand what was happening but not as much as I did. I would talk to her to calm her down and comfort her. I think Zhwan was 4 years old, he had not started school, so he was quite small when our father died.

45. The other big birthday celebration we had was for my birthday. This was at my uncle Hassan’s house. I was 13 years old that day. I remember that it was very exciting. Hassan bought me a football and some toy cars. My cousin Ali bought me a remote control toy car.

156. I would agree that there is an important distinction between someone not always knowing their date of birth but knowing their age by reference to other relevant life experiences. In this context, it is of significance that the age assessors did ask the applicant how he knew his date of birth but did not explore that issue any further as to how he knew his age. I would agree with the submission made by Ms Hafesji that this was a “striking omission”. I observe that the age assessors did seek to elicit information from the applicant, and he was asked about his other family members in the context of establishing his age via the social history. He confirmed that he had 2 siblings; a sister aged 14 and a younger brother aged 10 ( see [143]. He was asked how he knew they were the ages he had stated, and the recorded response is “he just

knows”, which was not followed up by any subsequent questions or signposts which might have elicited a greater understanding of this issue.

157. The evidence in the witness statement as to how he knows his age refers to celebrating his birthday and by reference to other life events. He provides a description of knowing his age because it heard people refer to his age and he was aware of his age because his family knew how old he was and would mention his age and marked birthdays. This evidence is not consistent with the information given in the age assessment and this is recognised in the grounds of challenge at paragraph 66 ( see [55]) where it is accepted that the written evidence differs from the information provided to the age assessors. It is stated on the grounds that the applicant could not recall the instances during the course of the age assessment.
158. The applicant was not asked any questions about this inconsistency during cross examination and the issue was not raised in any closing submissions. It seems to me to be an identifiable discrepancy as recognised in the grounds. Given the lack of challenge made on this issue, and any further evidence given, I have considered the inconsistency in the light of the explanation given by the applicant in the written evidence. His explanation was that he found the age assessment process to be “stressful” and that he had explained that he had struggled with severe headaches which had an impact on his recall or memory ( see witness statement at paragraphs 46 – 47). He states that he found the age assessment very difficult, he was very stressed and described long meetings and that he wanted to get the age assessment finished because of that stress. He refers to questions that have been asked about his life and different things that happened and that sometimes the questions were not clear (at [238]).
159. When set against the written age assessment, this was carried out by social workers who had experience of children and teenagers and unaccompanied asylum seeking children [137]. They describe the checks undertaken, the introductions that were made and the process which had been explained to the applicant which included regular breaks and that he could ask questions at any point [178]. There is no dispute that the applicant was provided with an appropriate adult whose role been explained and to whom he could speak privately.
160. I would accept his evidence that being asked questions about members of his family and the journey in the particular circumstances of the account that he had given may have been difficult and at times distressing but that was recognised by the age assessors and discussed with him ( at [139]). I also take into account that the applicant had previously been experiencing intermittent headaches and had problems in recall (see IHA 16<sup>th</sup> of December 2021 [197]). His engagement with the process was described at [141] in the observation was made that he was not overwhelmed being asked questions about his past life experiences.
161. In summary whilst I accept the applicant’s evidence at the age assessment process may have had difficulties for him and there were some verifiable medical problems

and I would also accept that it would likely be a stressful experience, the age assessment records demonstrate that he was able to participate in the assessment. I also take into account that he had told the age assessors that he had problems recalling matters and had been experiencing the intermittent headaches, which had led to one of the assessment sessions having to be abandoned. They are relevant considerations in assessing whether his explanation for the inconsistency is a reliable one. In this context I take into account the observation made earlier, that the questions asked of the applicant and the age assessment around the issue of age did not extend beyond asking whether they celebrated birthdays or not.

162. The applicant's evidence as to how he knows his age is set out in the witness statement at [234] as recorded above it confirms that he has never seen his shenasnameh and he has not always known his date of birth. He states that he has known his age for as long as he can remember ( at [234]). He knew his age because "since I could speak I have heard people refer to my age" and that whilst he did not know the year he was "aware of the passing of time and the passing of the year" which he would be able to track "by the seasons.... And several festivals throughout the year." He states that his birthday was celebrated on occasion can record his 13<sup>th</sup> birthday. He also recalls his younger sister's birthday celebration shortly after their father's death.
163. As set out above, the correct approach to determining age is to consider the credibility of the person's account of how they know their age. The evidence set out above was not the subject of any challenge during cross examination. I have looked at that evidence in the context of what has been said previously to examine its general consistency. The applicant recalls the celebration which was "big" which he meant was more than a gathering with special food, which took place for his sister. It was when she was 8 years old. He recalled it because it was the same season as when his dad passed away and that his mum had wanted them to do something happy to cheer his sister up. He described himself as being 10 years of age ( see paragraph 43 at [236]).
164. This can be viewed in the context of the evidence given by him on arrival as to the ages of family members. He was asked about his sister's age and said she was 14 and he had a brother aged 10. He said his father died when he was 10 years of age. The birthday that he described was for his sister when she was 8 and his brother was 4 years old. That identifies an age gap of 2 years between himself and his sister. The evidence given on arrival is consistent with his later witness statement and that if those age's given are correct it is consistent with the age on arrival as roughly 16 years of age as it would make him 2 years older than his sister. I therefore give some weight to that evidence in the assessment.
165. I further take into account that the applicant's evidence is that the source of his knowledge concerning his age comes from his family. This is consistent with the evidence given that dates of birth are recorded in Iran ( and this differs from other countries) as recognised in the age assessment and in the country information. The



document is called a “shenasnameh” which is an ID booklet issued at birth. His evidence is that this document is in the possession of his mother, and that “she is able to read basic information like small words and numbers” and therefore she would be able to read his date of birth and be cognizant of it, given that in Iran it is a society where people know their age. He referred to his mother keeping the document in a bag along with other documents and that it only seen the cover although he thought the cover was green ( oral evidence).

166. I turn to the circumstances of how he was told his date of birth. As set out above the applicant accepts that the first time he was given his date of birth was from his mother ( see[142] in the age assessment and the evidence at [235], and he did not know it before that time. His account is set out at paragraph 38 [235], that he knew his date of birth because his mother had told him. It happened when he was with his cousin Ali and when his mother told him over the phone that the house had been raided by the intelligence services and he could not return home. The applicant describes standing next to his cousin and that he told him what his mother was saying.
167. The applicant was cross-examined as to the events that took place before this conversation. It included cross examination about where he had been, what he had been doing, who he had seen and general questions around the timeline. There were no inconsistencies identified from that account that he gave in oral evidence.
168. As to the evidence thereafter, he said that he had been contacted by his mother at a place that was close to his home village. In the age assessment he described it as being 15 minutes away. He confirmed that he had his mobile phone with him. When asked in cross-examination if his mother had rung him to warn that the government officials had come he replied, “she rang my cousin Ali even my mother did not use a mobile phone she used her neighbour’s phone”. Whilst it was put to him that she could have rung him as he had his mobile phone, the answer he gave above is relevant to those circumstances. He was asked in cross-examination how long after did he leave Iran? The applicant stated that “the day after the night I was already in Iraq”. He was asked if it was his mother who were told was date of birth when he was leaving Iran or whether it was his cousin, and he replied my mother told Ali and Ali told me”.
169. Mr Paget on behalf of the local authority submits that it is difficult to understand the account as to how he was informed of his date of birth and there was no reason for her to tell him his date of birth as she would not have known he was leaving. He pointed to hearing the date of birth as being unreliable as it was “second-hand hearsay”.
170. Ms Hafesji submits the fact that he had heard about the information second-hand did not undermine his credibility in circumstances where he was in the same place as Ali at the time and there was no material differences between Ali being told information and it being relayed to the applicant. She submits it is plausible that his mother would believe that knowing his date of birth would be important when travelling and leaving the country and therefore it is plausible that she would tell him. She makes the point

that there would be no reason to lie as it would have strengthened his claim if he had said his mother had told him.

171. I have considered that evidence “in the round”. As set out above the source of the information is said to emanate from his mother and this is consistent with the applicant’s evidence that his birth is registered and that his shenasnameh was kept by his mother. His evidence that she could read basic information such as small words and numbers is consistent with being able to read the date of birth on a document. I would accept that against that background it is credible or plausible that the applicant’s mother would have the requisite knowledge of his date of birth, and I attach some weight to that evidence.
172. The submission made to the evidence being unreliable as “secondary hearsay”, has to be viewed in the context of the evidence. Firstly, his evidence has been consistent that his mother was the source of the information and that it was from her that he knew his date of birth when he was about to leave Iran ( see handwritten notes at [173]). It is further recorded that it was when he was about to leave his country that his mother told him his date of birth. When asked if he knew his date of birth before then he said no (see [193] and [201]. Secondly, the fact that he was in the same location where the conversation took place and there was no delay in being told the information, is supportive of its reliability. I attach weight to the submission that his evidence was not challenged on the basis that he has been inconsistent about the conversation taking place or on the basis that Ali misheard the information. Thirdly, it is not implausible that his mother would believe that knowing his date of birth might be important to the applicant when leaving his home area. The evidence of the applicant has been consistent that the conversation took place at a time when he had been told that the authorities had raided his home and that he could not return. The evidence elicited in cross-examination was that he had left for Iraq shortly afterwards.
173. Mr Paget submits that there was no reason for his mother not to speak to the applicant as he had his mobile phone with him. However the applicant’s evidence is that his mother did not use her telephone but had used a neighbour’s telephone. The inference is that she did not wish to use her own phone given the interest of the Iranian authorities therefore it is not implausible that she would ring his cousin rather than the applicant directly.
174. I turn to other issues of credibility raised. The local authority’s case has been firmly based on the fact that he has not provided his shenasnameh. Mr Paget advances the case on the basis that this is a “no document” case, and that there is no reason why he cannot provide that document. In this context the issue of contact with family members is also of relevance.
175. I shall deal with the issue of family contact. There is no dispute between the parties that the applicant had a mobile phone before he left Iran. It has been described as a “classic mobile phone”. In the age assessment [147] it is recorded that in Iran a “classic phone” is a basic mobile phone that does not have a camera.

176. The credibility issue that arises is that the applicant claims that the phone that he had was taken from him by his cousin Ali. It is therefore relevant to two issues, being able to contact his family and obtain his shenasnameh and as relevant to his age and his credibility.
177. I have considered the evidence on this issue. As set out there is no dispute that the applicant did have a mobile phone in Iran ( see [147]). As Ms Hafesji submits, the age assessors did not ask the applicant specifically what had happened to his phone that he agreed he had in Iran. Nor was he asked in the “minded to” interview any questions about his ability to contact his family via the mobile phone or where it was. Ms Hafesji submits the fact that he had a phone when in Iran was not used to support their view that he ought to be able to contact the family.
178. The applicant’s evidence is that the phone was taken from him by his cousin Ali. When asked if there was any reason why he needed to hand over the phone, the applicant stated there was no reason but “Ali said you do not need the phone”. To clarify the evidence he was asked if he had given the phone voluntarily to Ali and he said that he had and when asked what reason Ali had given he stated, “he said I would not need the phone”. He said he did not argue with Ali because Ali was older than him.
179. Mr Paget on behalf of the local authority submits that the applicant gave no evidence that he did not have his phone in contrast to his oral evidence and cross-examination that Ali had taken his phone just as he had left Iran. He submits that there was no explanation about the telephone or lack of it to the assessors or in his witness statement and without referring to the loss of the phone the witness statement makes no sense. He submits that the applicant told the age assessors that he had the phone but did not explain that he no longer had it. He submits that when properly read in conjunction with the oral evidence given for the first time in cross-examination, the witness statement makes no sense as it did not explain what had happened to the phone. In essence, he submits the applicant has access to his mobile phone which contains the contact details of his family members. He submits that the explanation about what had happened to the phone was only given in cross-examination and it is an explanation that is lacking in credibility.
180. When assessing that evidence I take into account the submission made by Ms Hafesji that the respondent is asking the court to reject the applicant’s account and inviting the Tribunal to make a number of unfounded assumptions without any evidential basis. She submits that the applicant’s evidence is credible that he left his phone behind on the instruction of his cousin who said he would not need it once he had left. She states that the applicant was in a state of shock and distress and did not think to challenge Ali who was older than him and it was reasonable to follow his advice. Lastly she submits there may be a number of reasons why Ali may have taken the phone such as the realisation that the applicant would not be able to use it and in any event why Ali had asked the phone was not within the applicant’s knowledge. The

key point is that his explanation is not implausible and is consistent with him being a child.

181. In her oral submissions, Ms Hafesji submitted that the applicant's witness statement did not deal with the whereabouts of the phone because it was not done in response to any questions asked by the age assessors as to why he did not have to phone and thus it was not relevant to the issue the court had to determine. It is further submitted that the local authority had set out their case in the summary grounds ( see paragraph 6 [72]) and that it was not raised as an issue as to what had happened to the mobile phone he had in Iran or why he did not use it to contact his family.
182. In my view whether or not the location of the applicant's mobile phone was raised in the summary grounds is of no real relevance. The fact remains that the applicant had the use of the mobile phone when in Iran. In those circumstances there can be no unfairness to the applicant being asked what had happened to the phone. Equally I do not consider that it can necessarily be said that he was concealing this information. I take into account in the applicant's favour that he did not hide the fact that he had a mobile phone which he had used in Iran ( see [147]). Whilst Mr Paget submits that the witness statement when read makes no sense because it did not give an explanation as to what had happened to it, when reading paragraph 30 alongside paragraph 60 set out at [239] where the applicant was giving an account as to when he last spoke to family members, the applicant plainly referred to him having a phone before he left but that he did not have one at that time. The witness statement does make sense. At its highest, what can be said is that he did not specifically state in what circumstances the phone had previously used was no longer with him.
183. The issue identified from the evidence is whether the account given by the applicant that Ali took his phone is credible or plausible. Whilst Ms Hafesji submits it relies upon an assumption being made without any evidential foundation, the question of contact with family members is the relevant evidential backdrop.
184. I accept the force of Mr Paget's submission that this was the way in which the applicant would be able to contact his family members to let them know where he was if he was well and whether he had arrived. The applicant's account of the witness statement was that he had an agent with him when he was detained who did not leave the country with him, there was another agent after this who told him that when he left that this was the last part of his journey and there would not be another agent waiting for him when he arrived (see paragraph 66;[240]). Thus the applicant was for at least part of the journey travelling alone.
185. The importance of the mobile phone to the applicant was also demonstrated in evidence during cross examination that this was the only source of the contact details for his family and in particular his mother. The applicant's account is that he did not know his mother's landline number and that he had used an icon on the phone itself. The applicant gave evidence that he had used it for contacting people and specifically members of the family, for example cousin Ali and his uncle and also the landline at

the family home to contact his mother. He stated that he had the phone since he was 8 years of age and after his father died as his uncle had paid for the phone. He confirmed it was the same phone that he was using until he left Iran. The extent and frequency of use of the phone was also the subject of cross-examination. His evidence was that he rang his mother at home whenever he needed to and estimated that it was about 5 times per week and also accepted that he would ring his mother in the evening before getting home. In respect of his cousin and uncle who said it was approximately twice per week and his cousin would ring him 2 or 3 times per week. He later added that his uncle would contact him.

186. The applicant could give no reason why he needed to hand over his phone and when set against the circumstances of the applicant and in the light of his evidence I do not find on the balance of probability is that he would have been asked to or indeed surrender his phone to Ali.
187. As regards the account that he does not contact his family members because he does not know the telephone number, I have viewed that in the context of the submissions and the evidence given. In light of the extensive use of the telephone I do not accept that he would not have any recall of the telephone number even if it were a saved icon and it is more likely than not he would know the landline number which was the number upon which he regularly called his mother.
188. However even if his account is right that he did not know any of the numbers or did not have any means of contacting family members, it is necessary to consider other parts of his account and to assess whether he had the opportunity to obtain number then.
189. The applicant's evidence is that when travelling between Iran and a number of unknown countries he unexpectedly spoke to his mother by telephone ( see written evidence at [233] at paragraph 30). He had stated that on the journey a car had taken him to a place in the jungle, he stated "while I was here, I spoke to Ali and my mother. One of the people I was travelling with came to me and said that my cousin wanted to speak to me. I do not know if this person was an agent, but they must have known my cousin to be in touch with them. I spoke to my cousin and my mother. My mother wanted to check on me, to see how I am and where I was. Because I did not have a mobile phone, I could not speak to my family after I left except on this occasion."
190. The applicant told the age assessors on 16 July 2022 [147] that he had contact only once. He was cross-examined about this and said that he had met the person who approached him. When he was asked if his evidence was that a complete stranger came up to him saying "I have your family on the phone they want to speak to you", the applicant stated, "I was under the control of people" when reminded that he said he had never met the person before, he stated "I mean I was handed to this person". He was then asked whether there was any other person or just the man who

approached him with the phone, the applicant said yes and that he was told his cousin and mother wanted to speak to him.

191. As to the contents of the call he was asked if he had asked Ali the identity of the person who would have been able to find him or how he was able to find him? The applicant stated that he did not ask Ali those questions.
192. When asked why he did not ask his cousin for any telephone number the applicant stated that it was because he had spoken for a short while and he was so happy that he forgot to ask. When asked about the call with his mother and whether he had asked her how she got the telephone number to speak to him, he stated that his mother had said she got the number from Ali. However when asked whether phone call taken place either at the house of his uncle or elsewhere he could give no information. When questioned as to why he did not ask his mother the landline number which he had forgotten he said, "I was quite happy that he did not come into my mind to ask for the phone number."
193. When assessing the evidence, the appellant's account as to the identity of the person who contacted him has not been clear. However, I would accept that it is not inconceivable or implausible that the person described may be an agent given the context of some type of instruction given that he had been with an agent. It is also consistent with the evidence given to the age assessors that the call was as a result of the agent. However I accept the submission made that he had taken no steps to obtain any number so he could contact them. This was significant in the light of his evidence that he did not remember any of the telephone contact details of any family member or any person. If it is true that he did not have his phone because it was taken from him, it is more likely than not that he would have asked for a contact number which he could keep with him so that he had a means of continuing contact with them at some point in time. The explanation offered that he was excited does not adequately or reasonably explain that failure. This is a matter that weighs against the applicant's credibility.

The issue of the document:

194. The applicant also states that he cannot contact his family so that they can provide him with his document because he does not wish to contact them out of fear of harm to himself or his family members from the authorities.
195. There is no dispute between the parties that the applicant has a shenasnameh in Iran. The applicant has given 2 reasons for not obtaining this document. Firstly, he has no telephone number or means of contacting his family as he does not know their number and he no longer has his original phone which had the family contact details on it. I have analysed the evidence on that issue in the preceding paragraphs. For the reasons given, I do not accept his evidence that he surrendered his telephone in the circumstances claimed or that he has no memory, details or recollection of the family

contact details. The 2<sup>nd</sup> reason as to why he is not in contact with them is that he is scared of contacting them in case he puts them at risk ( see paragraph 61 – 62 his witness statement).

196. The applicant's evidence initially as recorded in the IHA (dated 16/12/21) was that he had had no contact with his family as he was unsure if they were safe. His evidence thereafter and as given to the age assessors was that he did not make contact with his family because he had lost their contact details but also had said he did not wish to make trouble for his family and relatives in Iran ( see page 202 and 144).
197. This issue is explored in oral evidence and cross-examination, and he was asked if he had ever tried to contact any of his friends or family members and he said that he had not. He confirmed that his cousin Ali used Facebook but that he could not trace him.
198. During cross examination he was taken to the relevant country materials in the CPIN [522] and that the Iranian authorities do not have the ability to monitor on a large scale Facebook accounts and it was suggested to him that there was no evidence that Ali was of any interest the Iranian authorities and thus no reason to target Ali.
199. As set out in the skeleton argument of Ms Hafesji, the “perfect” or “conclusive” evidence ( quoting *A v Croydon* at [27]) would be the shenasnameh.
200. The local authority case is that the applicant has taken no steps since his arrival in 2021 to obtain that document which sets out his date of birth and is available and that there is no reasonable explanation as to why he cannot obtain the document and that the failure to do so is “telling” and that this undermines the credibility of his account of his age.
201. It is submitted that he has taken no steps to contact his family since he has been in the UK and when the evidence is analysed his responses in oral evidence are not reasonable either on the basis that he does not know the telephone number or contact details of family members or because he is in fear of contact his family members in case he puts them at risk.
202. Mr Paget submits that in the oral evidence given by the applicant he was not willing to depart from that position irrespective of being provided with the country material relevant to the capabilities of the Iranian authorities to monitor social media.
203. Ms Hafesji submits that the applicant does not bear the burden of proving his age nor does he bear the burden of proving that contacting the family members to obtain the document would put him at risk. She submits that all he must show on the balance of probabilities is that he cannot contact his family in order to obtain documentary proof of his age either because he does not have the means of contact and/or because he is

prevented from attempting to contact them because of a credible fear of harm to himself or them.

204. She further submits that he has been consistent in his account that he cannot contact his family because he will put them at risk.

205. The applicant's evidence is set out in his witness statement as follows:

“My solicitor said that the age assessors said that they did not understand why I don't get in contact with my family to ask for my Shenanameh. The assessors never asked me this at the age assessment. If they had asked me, I would have told them why I have not contacted my family. As I explained above, I didn't have a mobile phone when I left Iran, and only got one in the UK. I don't have a phone number for my mother or anyone else in my family. I couldn't contact them even if I wanted to. I don't have them on Facebook, and I only got Facebook in the UK. I haven't looked for anyone in my family on Facebook because I am worried about putting them in danger because I was caught helping a Kurdish political party.

My sister, brother and mother don't have Facebook and we did not have internet at home. My cousin Ali does have Facebook, and I saw him use it on his smart phone. However, as I have said above, I am scared to contact my family because I don't want to put them at risk.

I do want to get in contact with my family again, and I have been told that the Red Cross has a tracing service that can help. As soon as I think it will not put my family at risk, I will get in touch with my mother. I miss her so much. But at the moment, because the intelligence forces raided my house looking for me, I don't want to contact her and risk putting her in danger.”

206. When assessing the evidence I begin by making some general observations. First, I take into account that decision-makers may have to do their best on the basis of less than perfect or conclusive evidence ( see R (on the application of A v London Borough of Croydon [2009] UKSC 8 at [27]) and thus the fact that the perfect evidence ( i.e. the document) is not available does not prevent the court from determining the issue of age on the basis of other evidence available to it.

207. Secondly, there is no burden of proof imposed on the applicant to prove his age in the course of such an assessment. Thirdly, that it may well be inappropriate for the respondent to expect from the applicant conclusive evidence of age in circumstances in which he arrived unattended and without original identity documents. However the nature of the evaluation of the evidence will depend on the particular facts of the case ( see R (CJ) v Cardiff CC [2011] EWCA Civ 1590, cited in VS v Home Office [2014] EWHC 2483 at paragraph 78 (6)).

208. Notwithstanding the way the local authority had put their case and the summary grounds, both advocates agree in their oral submissions that the applicant cannot be required to prove his age by producing a document, in this case the shenanameh. What is relevant is an evaluation of the evidence that relates to this applicant and his particular factual circumstances.

209. Having considered the evidence I take into account the submission made on the applicant's behalf that the applicant has given an account which is not implausible and



that the local authority's reliance on the CPIN does not assist and whilst it is stated that there is a disparity between what the Iranian state claims it can do and its actual capabilities, the task is to assess the subjective evidence on whether the applicant has a genuinely held belief that he is scared to contact them.

210. Whilst Mr Paget has directed the tribunal to country materials in the CPIN that material is based on the evidence set out in a country guidance decision of the Upper Tribunal in XX (PJAK, sur place activities, Facebook) (CG) which records that the evidence fails to show it is reasonably likely that the Iranian authorities are able to monitor, on a large scale, Facebook accounts. The decision makes reference to that the risk that an individual is targeted will be a nuanced one and whether accounts will be targeted will depend on a person's existing profile and where they fit onto a "social graph."
211. It is not the task of this Tribunal to undertake an analysis or assessment of the applicant's asylum claim based on his imputed political opinion or actual opinion which he says is demonstrated by his sur place activity which includes attendance at anti-regime demonstrations. Some of that material is exhibited in this bundle. Thus it is not possible to assess his profile on the "social graph" and whether this may have any bearing on risk. In this context the respondent's written submission that the applicant left Iran voluntarily for reasons not relating to state persecution (see paragraph 4 of written submissions dated 5/3/24) does not reflect the nature of the claim made.
212. Furthermore whilst the Tribunal was directed to material in the CPIN as regards the capabilities of the Iranian state to monitor its citizens, there is other relevant material which is supportive of the subjective view held by the applicant which points the other way. The section at 14.6 [476-477] makes reference to the targeting of activists family members. The country materials refer to the family members of political activists or supporters may be at risk of being questioned, arrested and detained. The report makes reference to "family members of anyone conducting social or political activities will be put under surveillance, which includes monitoring of phone calls and computer use as well as their movement". There is also reference to "close family members, such as spouses, children, parents or siblings are more likely to be subject to arrest. In some cases the authorities arrested extended family members because they were in touch with the politically active individuals outside of the country." Similar references about monitoring are set out at 14.6.3 and 14.6.5.
213. That evidence is supportive of the applicant's account that he has not contacted his family members out of fear for them.
214. It is also not the case that the applicant did not give reasons for not contacting his relatives in the age assessment. During cross-examination it was put to him that his witness statement was not true where he said, "my solicitor said that the age assessor said that they did not understand why I do not get in contact with my family to us and my shenasnameh." In cross examination the applicant was taken to [209] where he

was asked the following, “are you still in contact with Ali. No. Why? – I’m not contacting anyone in my country.” In cross examination it was put to the applicant that he gave no reasons for that “bald position”. However the question to which the applicant was taken was from the first meeting on 22 May 2022 ( afternoon session). The same note of the morning session records at [202] “are you currently in contact with... Relatives or friends in Iran? No. Maintaining contact with loved ones is very important who have travelled. Do you agree-repeat again. Yes. Since you agreed why not able to maintain contact with... Relatives in Iran? The reason I do not contact there is that I do not want to make trouble for family relatives and friends in Iran”.

215. I have reached the conclusion that it is not a new explanation given by the applicant or recent explanation but one that he has maintained since his arrival, and he had also explained to the age assessor’s why he could not contact his family. As noted earlier, the age assessors took into account that he was able to use social media and thus obtain his document without having regard to the reasons he clearly gave for not contacting his family based on risk to them.

The observational evidence:

216. Both parties rely on observational evidence. The local authority rely upon the evidence of Ms Kiyemba, the allocated social worker who has given oral evidence, and the written evidence of Mr Raza, the applicant’s key worker and Mr Reid, safeguarding officer. They have not provided witness statements, but their observations were compiled by the age assessors and formed part of their assessment. On behalf of the applicant reliance is placed on the evidence of his peers, MM and EM, both of whom have provided short statements, the evidence of Ms Tait whose written evidence was relied upon and the evidence of Mr Singer who gave oral evidence.
217. The assistance of such evidence in an overall assessment is referred to in the decision of R (on the application of AM) v Solihull MBC [2012] UKUT 118 between paragraphs 19 – 22. Paragraphs 19 – 20 sets out that “when considering demeanour 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 the opportunity to observe an individual going about his ordinary life”. The Tribunal considered that it would be difficult to see that any useful observations of demeanour or social interaction or maturity could be made in the course of a short interview between an individual and a strange adult, noting that there may be cultural difficulties as well as ordinary social difficulties in such an interview. At paragraph 20, the Tribunal considered that the asserted expertise of a social worker conducting the interview was not sufficient to counteract those difficulties. However, the Tribunal went on to state “a person such as a teacher or even a family member, who can point to consistent attitudes, and a number of supporting instances over a considerable period of time, is likely to carry weight that observations made in the artificial surroundings of an interview cannot carry.”

218. At paragraph 21, the Tribunal considered that “reactions from the individuals peers are also likely to be of assistance if they are available. We do not suggest that other young people are qualified specifically to give evidence about the age of a colleague of theirs, nor should they be encouraged to do so. But those who work with groups of young people see how they react with one another, and it seems to us likely that evidence of such interaction, if available may well assist in making an age assessment, particularly if any necessary allowance for the cultural differences can be made.”
219. Lastly, at paragraph 22, in the context of the phrase “expert evidence” the Tribunal stated that it has as such no specific place in Tribunal procedure and that the “person demonstrating qualifications as an expert is thereby entitled to give evidence which may contain opinions and may be based on hearsay. Neither opinion evidence nor hearsay evidence is excluded from Tribunal proceedings. Nevertheless, witnesses are tendered on the basis of their expertise, and we accept that what they have to say may be more or less helpful according to their expertise. But, in our judgement, the assistance they can give us is even more closely linked to what it is that they have to say, and their basis for saying it.”
220. With those observations in mind I assess the evidence relied upon by both parties. I begin by considering the evidence relied upon by the local authority and the evidence of Ms Kiyemba. Ms Kiyemba is a social worker employed by the local authority. She stated that through her interactions with him, he presented very confident, smart, self-assured and defiant of any advice or support, as it did not wish to be questioned around anything which would lead him to becoming evasive with information. Based on her experience of working with young people she found him more in control of what information he wished to share, and would be reluctant to take on advice ( paragraph 9)
221. In terms of his physical appearance, he has a full beard in comparison with other young people of his claimed age, a pronounced Adam’s apple and his skin looked mature. Ms Kiyemba accepted that his life in Iran in his journey may have had an impact on his appearance, but she struggled to correlate that this solely was based on the hardships he may have experienced ( paragraph 10).
222. She concluded that her age remit of the services were between 0 to 18 and that it was her view that the applicant was not suitable for their service and that she strongly believed that he was a mature adult and not a young person of his claimed age but someone in his 20s.
223. The evidence given by Ms Kiyemba as to her opinion of his age and his physical appearance and demeanour is consistent with the observations and assessment of the age assessors. As to the physical and developmental characteristics relied on, they are those set out at [167]. His physical and secondary sexual characteristics were found to be prominent that he appeared older than the claimed age of 17 years. His tone of

voice was described as deep and indicated that it had already broken. He had an Adams apple. The assessors also relied upon his facial hair.

224. Other professionals who have worked with the applicant have also provided their assessment of his physical appearance and characteristics. It is not entirely consistent. Mr Reid in his assessment of the applicant was that his facial and chest hair was fully developed. Whereas Mr Raza, his key worker, described his physical appearance as tidy and clean shaven on occasionally grows a beard and has facial hair and being of medium build.
225. The inference drawn from the physical characteristics such as having an Adams apple or a break in his voice does not really assist on its own to establish the applicant's age or date of birth. As to the evidence of hair growth, as a general proposition it does not assist in determining age again by itself as the prevalence of hair is affected by ethnicity and the genetic background and for some their ethnic background and culture.
226. The evidence of Ms Kiyemba is set out in a witness statement and in the oral evidence given. She first met the applicant on 20 November 2021 and has visited him every 6 weeks as his allocated social worker. She also maintains communication with other professionals. She described him as having short black hair with a beard dark in colour often shaved. She gave oral evidence about his appearance and that of young people generally. In her evidence when cross-examined she made a concession that people develop at different rates and that facial hair could be influenced by ethnicity.
227. As to his Adam's apple, her evidence was that she would not know if an Iranian male would have a prominent Adam's apple but that a 17-year-old would have one. In fairness to Ms Kiyemba and to put that evidence in context she stated that she knew of an Iranian boy who did not have an Adam's apple which was pronounced and had been assessed by the local authority as being a child. In her view the applicant looked older. Whilst Ms Hafesji criticised that as an attempt to seeking to bolster her evidence because it was given for the first time in cross examination, I do not accept that submission. The fact that she gave a reply in response for the first time in evidence is not indicative of bolstering evidence but of someone answering the question posed to her in cross examination by providing an example from her experience. In any event, it does not assist in determining age given that she did accept that when comparing "Adam's apples" from one individual to another it was entirely possible that 2 individuals could develop at different times.
228. When considering the evidence given as to physical appearance, it is part of the overall picture in the light of the evidence taken "in the round". However overall it is not a feature which is of any way determinative, and I give it little weight.
229. Turning to the issues of demeanour and behaviour this has featured as part of the age assessment as taken from the evidence of other professionals that they had interviewed. They noted at [161] that the applicant presented more consistently as

someone who was older having considered the feedback from the professionals who had provided reports.

230. In assessing that evidence I take into account that Mr Raza and Mr Reid did not provide witness statements to the proceedings and therefore have not been subject to cross-examination.
231. The evidence of Mr Raza is at [156]. He has been the applicant's key worker since November 2021 and has met him twice per week on placement. He described him as being initially "shy and modest and avoided talking to female housemates, but his behaviour has changed over the last few months". Reference was made to him staying at home but that they "hardly see him at home during the day and praying". He describes in his being a "very childlike person" the beginning but that he is "very confident now rather persuasive". Reference is made to him hardly staying at home and never discloses his intended destination; often leaving the placement at 9.00am and returning after 7.00pm. As his observations based on interaction with the applicant, he states "R's behaviour has definitely changed within a few months if not weeks. He is a different person what we experienced within a few weeks of moving into his current placement. He is sceptical about everyone from his support worker to anyone else who tries to advise good practice and support him. He thinks negatively about his social worker...I felt a clear change in his attitude and behaviour that is certainly more defiant. I would put him in 18-20 age bracket. My perception/assessment is based on his stature as I do not believe he is going to grow any taller and secondly, his mental maturity and processing of information is appropriate to an adult". I observe that he did not any examples of how the applicant processed information in an adult -like way.
232. The evidence of Mr Reid is recorded in the age assessment at [157] who has the role of the pre-16 safeguarding officer. He described himself as in close contact with the applicant 5 days a week. He set out that he believed R to be considerably older than the age in the documents, his facial/chest hair is fully developed. He has the demeanour of an adult in the way he goes about things. He mainly interactive female learners in a flirty manner and seems to undermine the male learners." He stated that "my personal opinion on R's age is that he is over 20 years old. I work in a department where all the learners are in year 11 (15/16 years old) and he is clearly older than that age group. He concluded that he was not suitable for the remit of the provision.
233. The evidence Ms Kiyemba gave to the age assessors is set out at [158]. She provided some observations about his physical appearance and that in terms of his behaviour that initially when he became looked after he was "quite shy" and spent "most of his time in his room" but that there had been a change in his behaviour, and he was viewed to be somewhat "more defiant". She described a conversation on 14 April 2022 when he was adamant he would not disclose the details of his friend who he wanted to stay with outside of London but would be willing to provide the postcode.

Reference is made to staying out his placement long hours with his whereabouts not being clear. She thought he was acting in an adult like way.

234. In terms of the developmental considerations and independent living/self-care skills, she reported that he was “quite an independent young person and has not needed that much support. It is placement undertake tasks such as getting around London, managing his finances by himself or cooking meals.” Regarding his health she stated there were no ongoing concerns but initially there were quite significant concerns around R’s mental health due to him repeatedly crying when professionals would speak with him on the phone. It had not been observed lately and R was unsure if he would like to access CAMH services. She was aware that his age is being disputed but that in her opinion, she believed the recent changes with his behaviour were due to him becoming more comfortable with his surroundings and that “if I were to compare R's facial appearance with another 16-year-old, I do not believe R has been truthful professionals about his age and will put him to be over 20 years old.”
235. It was based on that evidence that the assessors concluded that R is “without “the control of the placement staff, and they gave weight to those professional views in their assessment.
236. Ms Kiyemba’s written and oral evidence related to his behaviour and demeanour. Whilst her witness statement was short she was cross-examined about issues at some length. Having heard the evidence of Ms Kiyemba, I found it to be given with thought and with care and this assessment is supported by the concessions she made in her evidence. For example, she made a number of concessions that related to the difficulties in assessing physical appearance. She accepted that when she said his skin was “mature” that she had no knowledge or experience of what impact the applicant’s life in Iran may have had on his physical appearance generally. There were a number of points in cross-examination where her evidence was given fairly and measured. I will return to this.
237. Ms Kiyemba in her evidence also accepted the views of others who had seen the applicant including the support worker and teachers for example in the LAC review he was described as being “well-behaved” (at [61]), and as a “hard-working student” [160] and when he went to a different placement described him as “having a good sense of humour”. She accepted that others had formed those relevant views.
238. She also fairly accepted that children or young adults can present to different people in different ways and such presentation can depend on the relationship they have with the individual. She accepted in general terms that a child may not trust an individual if they did not feel they were being listened to. In this context she accepted that the applicant may not have been open and forthcoming with her was because, from his perspective, theirs was not a relationship characterised by trust and support.
239. They were proper concessions to make, and I do not consider that they undermine her evidence.

240. She also accepted that there were aspects of his behaviour which were consistent with his claimed age for example he exhibited changes in his physical appearance typical of a teenager between the ages of 16 and 17 including growing in confidence, showing an interest in girls and changing his hairstyle.
241. When assessing her evidence in the round she gave some examples of what she considered to be relevant aspects of his behaviour; that she had undertaken a visit with him, and it was difficult to get information out of him and he would “shut down the conversation”. In the example given she said the applicant provided information that when she contacted the individual they said they did not know who the applicant was. When she shared information to the applicant he said she was lying. This is not in the social worker’s notes, and I take into account the applicant had not been given the opportunity to respond.
242. There were particular examples of the applicant’s behaviour that had formed the subject of cross-examination. Dealing with the evidence of the curfew, the applicant had asked for the time to be extended. She accepted in her evidence that it was not unusual for teenagers to wish to stay out late but the conversation she had with him was that he was adamant that he was old enough to stay up later. This was consistent with the note at [37] where the reasons given for wanting to extend the curfew was to see London at night. It appears to be the position that the curfew was not extended in any event.
243. As to the change of college she was cross-examined about this. It was suggested to her that there may be many reasons why he wanted to change college, for example, not liking the college or not making friends. Again Ms Kiyemba agreed that there were possible reasons why the applicant might not be able to explain why he wanted to change college. I do not think her immediate reaction was harsh and judgemental as was suggested to her in cross-examination but that for a change of college to take place there would need to be reasons given and none had been. She had been in contact with the college they did not share any concerns of his interactions there and that he could not just change because he wanted to. No issues have been raised at the placement.
244. Ms Kiyemba was cross-examined about the amount of time he spent outside the placement. This was one of the reasons given in support of his behaviour being inconsistent with his claimed age. In this context she agreed that the social work notes related to the holiday periods in college, rather than term time, and she accepted that it would not be unreasonable for him to have leisure time. She further agreed that it was not unreasonable for him to wish to “hang out with friends” as it was put to her, and it was plausible for the applicant to be wanting to keep busy outside of the placement.
245. There had been a reference in the notes to the suggestion that he had been working. This was based on his ability to pay for travel around London. The mechanics of how he could travel was put to her in cross-examination and that he would be able to travel

freely by bus and that was not inconsistent with the allowance that he had given. She further accepted that it was plausible that he may have wanted to get out of the placement. She did raise the concern that if he was travelling to central London as claimed food in central London is more expensive than elsewhere. Whatever the suggestion was, it was accepted by Ms Kiyemba that they did not have evidence he was working.

246. As to the issue of friends, she was questioned about this issue and whilst she accepted that he had said he had been with friends, she was surprised about this because in her conversations with him he had said he had not made friends with anyone that he wanted to socialise with. Reference was made to someone at Dover called B whom he stated was the same age. She accepted that it was not unusual to leave at 8:30 a.m. and to return at 7.00 p.m. given that this was a holiday period. He was not at college, and it would not be unusual for a young person to want to socialise. She accepted that this was not in breach of the curfew. The issue she said she had was that she did not know where he was and was trying to establish what he did within that period of time. When asked in re-examination to comment about the applicant's evidence that he was going for a walk or feeding the ducks (as at August 2023) she stated that when assessing him in April 2022 he did not say he was going out for those reasons and that it was this which led her to be sceptical as it was "not clear what he was doing and also a lot of walking around. He did not say anything about feeding the birds".
247. The thrust of her evidence was that there had been some concerns about his behaviour in terms of not being forthcoming as to who he was spending time with and what he was doing. When assessing that evidence, there is some suggestion he was not willing to share that information. However whilst an example was given as to the applicant have gone missing in June 2023, the evidence does not demonstrate that he had not provided details when he was asked later on. The evidence in the notes demonstrate that he went missing at 20.02 [248] and returned at 18.30 on 28 June 2023. His evidence was that he travelled to Barking to celebrate Eid, he went to a friend's home, and they played FIFA. He said that he had kept in contact with the carers. The applicant's evidence is supported in this regard as the carers when contacted stated that they had maintained contact with him verbally and shared the address at which he was staying. This is consistent with the witness statement of the applicant at paragraph 67 [260].
248. When considering the evidence of the applicant's peers, there are 2 statements from MM [271 – 273] and EM [274 – 276]. MM arrived in the UK and was accepted as an unaccompanied minor after assessment. The date of the witness statement he was 17 years old nearly 18. He states that he first met the applicant on an unspecified date in 2022 when they saw each other at college. The contact was not as regular thereafter when the applicant did not attend college, but the witness had seen him a few times a week. He refers to mutual friends of a similar age between 15 to 18 years.
249. When assessing the evidence I take into account that the MM has no experience of assessing or determining age. The basis of his opinion is of that the applicant has



“similar energy”, but this description is not further explained. I would accept that his evidence is not based on an observation as such but as a participant. In other ways his interaction with the applicant is on his own terms and experience in the context of being of a similar age. I also take into account in assessing the evidence that MM has no reason to believe that the applicant is older than his age based on what the applicant has said to him. He faces the obvious difficulties any layperson has in judging age. The evidence is no more than an impression that he has formed, and that evidence has some but is of limited weight.

250. The evidence of EM set out at [274-277] and at the time he made his statement he was 18 years and 8 months. He appears to have arrived in the UK at the same time as the applicant in October 2021 and following an assessment his birth date was accepted. He has known the applicant since a date in 2022 when attending ESOL classes. His opinion is that he thinks the applicant is 17 years old because the applicant behaves the same as him and other friends who like to spend time and have fun together. The reasoning has not been particularised further as to why aspects of the applicant’s behaviour is similar to his or his outlook. Whilst he provides a further reason at paragraph 9 based on his impression of him being young because he “cries a lot” that is put in the context of him missing his family. As in the case of MM, EM also has no experience in assessing age and it is not unusual for an adult to be upset when talking about family to whom he has previously been close but has had no contact with. His description of the applicant being “scared of a lot of things” is not consistent with the evidence of the other observational witnesses, including Ms Kiyemba who has provided evidence of his confidence and self-assuredness. The evidence given is an impression that he also has formed, and it has limited weight.
251. The evidence of Ms Tait is contained in a witness statement at [278-283]. Ms Tait is a Children’s Adviser with the Refugee Council working in the Age Dispute Project and has worked in that specific project since September 2022. Her experience in both working and supporting unaccompanied asylum seeking children is set out between paragraphs 4 to 5. She describes the purpose of the Project between paragraphs 6 – 13 and that when referred to the Project the purpose is to support children who have been “age disputed” and assist with them accessing the appropriate support. The unit does not accept all cases referred to them (paragraph 9) and that they keep the casework “under review.”
252. When meeting the applicant on 16 February 2023, Ms Tait formed the opinion that he was very open and keen to answer questions and presented physically as a teenager of his claimed age. She concluded from her observations that he was a vulnerable child who needed support and strongly disagreed with the view reached by the age assessors and that based on her extensive experience of working with unaccompanied children she believed his age to be 17 years.
253. When undertaking an assessment of that evidence Ms Tait did not give oral testimony. There is no dispute as to her role or her experience however the opinion reached as to

his age is based on one meeting which took place on 16 February 2023 and thus the time to form her observation and thus her opinion is limited.

254. As to her role, it is not one of assessing age. However I take into account that she has experience in working with highly vulnerable children including those who have been victims of trafficking in modern slavery and also individuals whose age is disputed. She has also completed safeguarding training courses in the course of her work. I take into account that her role is one also of support. At paragraph 19 to 22 she reached her opinion based on what the applicant had said to her. I observed that there is some consistency in what he told her about his age, not only as regards the date of birth which he gave to her as set out at paragraph 19 1/8/1384 9 converted to 23/10/2005 but also how he had known his age. His account to her of his journey from Iran and not knowing where he was or that he was in the back of vehicles and was not provided with any information, is also consistent with that information he gave to the age assessors although there is no indication that any question she asked were of the type which were challenging of his account . Overall I attach some weight to her evidence.
255. When assessing the evidence of EM, MM and Ms Tait, there is a strand of the evidence which stands out. MM refers to the applicant as being upset because he has had to share his room with a stranger who is older than him and this makes him scared ( at [272]). EM also refers to the applicant reporting that he is scared of the man that he has to share a room with. He described him as saying he did not want to stay in the room because the man is much older than him and it makes him feel scared ( at [276]). This evidence also features in that given by Ms Tait at [282] who described the applicant as telling her that he was not comfortable in the accommodation and that it had made him scared to share a room with someone who was much older than himself. She considered that this presented as a “strong indication of his real age to me” and appeared to be part of her assessment that he was a vulnerable child. This also is found in the written evidence of Mr Singer ( at [293]) who described the applicant’s experience of living in adult accommodation and that “he became emotional and spoke passionately about the difficult period in his life had gone through while living in a hotel. We spoke about how afraid he was not having to share a room with a much older man.” Mr Singer formed the view that it was clear to see that these experiences were still “very fresh and traumatic for him”.
256. There are 2 witness statements, dated 26/7/2023 [C284] and 30/8/23 [C 287] from Mr Singer. He is a children’s adviser in the Refugee Council’s Age Dispute Project. He has been employed in that capacity since August 2021 and in that project since December 2021. His role at the Refugee Council specialises in supporting asylum seeking unaccompanied children who have been age disputed. The objective of the project is to support children whose ages are been disputed as being over 18 and Mr Singer works to support the children to access legal advice and support in regard to the assessment of their age . His role also involves working with other professionals to ensure age disputed children have access to care and support their entitlement to. Mr Singer became the allocated adviser responsible for supporting the applicant’s age dispute case following the departure of Ms Tait in April 2023.

257. He described his first substantial interaction with the applicant which came several months later on 28 July 2023 where he joined a video call with his solicitor. The next interaction with the applicant was on 29 August 2023 when he visited him in person at his placement. The meeting was approximately 2 hours. Mr Singer describes this meeting between paragraphs 18 – 24. He stated that spending time with the applicant served to strengthen his initial impression that he was likely to be a child has claimed.
258. They discussed a number of different topics, and he found him to have a “childlike view of the world around him” and that was observed in the way he talked about his relationship with others, his anxieties and things that matter most to him. This included how he spoke of his social worker. Mr Singer gives an example of gauging this from his surprise at learning new things that one would expect an adult to know, for example the concept of paying rent to a landlord. Mr Singer referred to his cooking and that in a “childlike manner” he listed all the dishes he was now able to cook. It was his opinion that that discussion was more likely to signify his immaturity and lack of life experience rather than cultural differences. Mr Singer provided an example of the applicant’s behaviour in the context of the humour that he had expressed and reached the conclusion that it reminded him of other conversations it had with on a complete children learning English for the first time and their discovery of swear words[293].
259. It was suggested to him in cross-examination that in the UK people have a scatological sense of humour and that jokes were made about bodily functions which did not stop at the age of 23 and that it was not inconsistent with having an older age . Mr Singer did not agree.
260. Mr Singer stated that it was when speaking about his experiences at the adult hotel that it became more serious in tone, and he spoke passionately about the difficult period he had gone through while living in the hotel and having to sharing with an older adult man.
261. He concluded that he believed that the applicant’s physical appearance is consistent with that of a 17-year-old child. He referred to the applicant of having a “bushy beard, which she acknowledges was a reason why the assessors believe he looked older than his claimed age in his assessment”. Nevertheless Mr Singer’s opinion was that even with his facial hair, he believed he could be 17 years old.
262. He was cross-examined by Mr Paget. He accepted in his evidence that everyone in the project are those who are “age disputed” . He stated that the assessment was not equivalent to a local authority age assessment and the bar is “substantially lower” and that they were operating a “benefit of the doubt”. He explained that the project had no age assessment training in the same way as age assessors but through their practice they have a comprehensive understanding of the framework and uses the guidance to inform them. He stated that they would not accept someone if they felt they were very

clearly an adult but “where there was ambiguity there is doubt” therefore “we refer to have a lawful age assessment and then provide support thereafter”.

263. He was asked whether he knew how many were successful in challenging their age assessment within the project? He stated he did not know but there was a sizeable proportion.
264. When asked about paragraph 9 where he said he was mindful of culture and nutrition and the unreliability of appearance, it was put to him that he later relied upon the applicant’s physical appearance as being consistent with a 17-year-old ( see para 25 [C 293]. He was asked if his physical appearance would be consistent with the assessors age of 23? Mr Singer stated that it was “not outside the realms of possibility that he could be 20 to 21 years and it is difficult to look at someone and it depends on their culture but from my experiences of working with UASC and those challenging the age assessment he does not strike me as looking dissimilar that is why I say is appearance is consistent”.
265. It was suggested to him that whilst he stated it was difficult to determine a person’s age by looking at their appearance he had stated that he was in the range of 17 to 21 years of age but that he did not have age assessment training. He was asked what it was in his evidence that made him cut off the age range at 21 years in other words what was it about his physical appearance? Mr Singer stated that he did not think it was contradictory and that physical appearance can be an unreliable indicator, but someone could be in a range of different ages.
266. He was asked again what it was that made him stop the range at 21 years of age in his evidence. He stated that he believed his appearance to be consistent with a 17-year-old. Based on his interactions with the applicant he thought it was more likely that the applicant was 17.
267. He agreed that in terms of chronology he had had no substantial interaction with the applicant before 28 July 2023.
268. He was asked to look at the observation sheets at page 556 (supplement bundle). This was material from Mr Raza . He confirmed that he was not aware of this evidence. Mr Raza believed the applicant in 2022 to be already an adult between the broad ranges of 18 to 20 years( at [558]). It was suggested to him that Mr Raza had a lot of interaction with the applicant because the applicant was attending college 5 days per week in comparison to his contact. Mr Singer stated that it was subjective and that also his colleague Ms Tait had interactions with the applicant and had arrived at a different conclusion.
269. He was asked about the observation sheets of Mr Reid [559] who was the pre-16 safeguarding officer and that he had had contact with the applicant for 5 days per week over a period of 5 months and this was described as close contact. Mr Singer agreed that this was a substantial amount of observational contact.

270. Mr Singer was asked about Mr Reid's evidence. Mr Singer was asked that in light of that evidence which he did not know before he reached his opinion and whether that changed his view of the applicant's age. Mr Singer stated that he could only look at his own experience based on his interactions and that he derived his own conclusions based on a number of different issues and discussions including the stress and pain the process was causing the applicant, how he lived in a hotel previously which he did not like and a real sense of sincerity when speaking to the applicant and other observations. He stated that he found him to have a very childlike view of the world and that whilst he did not doubt that Mr Reid had a great amount of contact, he had seen him in a different context.
271. It was suggested to him that when he made his witness statement he had only observed him for one month ( having seen him in July 2023 and written statement in August 2023) and that this was a short time to base interactions upon.
272. In re-examination, he was asked about what age assessment related training he had had. He confirmed that they had regular training and also external training which consisted of reform and policy of the landscape and changes in the impact on age disputes.
273. He was asked about his witness statement paragraph 25 and how much weight he put on physical appearance. He stated that he put very little weight on physical appearance, but it was something to consider and that it was more likely to arrive at a correct decision when considering the strength of their account and their presentation and not just limited to appearance. He said the witness statement provided examples of conversation he had had with the applicant and that he had found him to be "distinctly childlike in character" and that taking holistically something he had observed with young people. The way he talked to his friends about wanting to be big and strong by going to the gym and how he felt unsafe when with an older man. Mr Singer stated that he felt that it was immaturity rather than acting as a 23-year-old.
274. He stated that he did not give evidence in every case but only when he genuinely believed that the person was the age he thought they were. He stated that the project would not take on a case if there is considerable doubt.
275. He was taken to page 559 and the information recorded about physical appearance and demeanour and that is facial hair been fully developed. He was asked if it was possible for a 16 year old be fully developed? Mr Singer stated that it was very common to have a well- developed facial hair.
276. When asked about his evidence of the applicant acting in a flirty manner, he stated that that was not age determinative.

277. He was asked about page 561 and the observation made by Mr Reid that he was over 20 years of age. Mr Singer stated that there was no explanation as to why he had formed that view, nor did he know if there were others in the group who were unaccompanied asylum seeking children and that without that knowledge it difficult to know.
278. In questions from the bench, when asked about his evidence where he stated the applicant behaved in a childlike way he was asked to look at [C297] SW evidence paragraph 9 and the elements of being in control and reported as acting “self-assured” and that if that evidence were correct would that be an indication of someone who was older than the age stated? Mr Singer stated “the elements around the information and not willing to discuss is not an indicator of someone as an adult but as to the other elements it is a “red flag” if someone is unwilling to disclose information. There are very good reasons why someone might not want to disclose information to someone, but it is a red flag, and you would have to look at the underlying reasons.
279. He was asked about evidence of spending time outside for long periods without disclosing who he was with or where he was going and whether that would be an indicator of age? He stated that he did not know the reasons for not disclosing where he was, but it is not unheard of. He explained that it depends on the relationship
280. When assessing his evidence there is no reason to doubt the good faith of Mr Singer in providing his evidence and that he has done so to assist the Tribunal. I found that his evidence was again given well, with care and was measured. The following matters are relevant in assessing the weight given to his evidence. I accept that unlike MM and EM, he has experience in interacting and working with asylum seeking young people. Whilst he is not an trained age assessor, it is clear that he has an understanding of the principles involved through his work in the project. I take into account that he does not give evidence in every case but only when he believes the person is the age he thinks they are.
281. I also take into account when assessing the weight of his evidence that when he formed his assessment as set out in the witness statement dated 30 August 2023, his actual experience of the applicant was limited given that his first substantive interaction with him was on 28 July 2023 which was a video call. The second meeting took place on 29 August 2023 and whilst this meeting was in person it was for a period of 2 hours (at [291]). His opinion that the applicant was likely to be child is based in part on his assessment that he has a “childlike view of the world around him”. He states he observed this in the way he talks about his relationship to others, his anxieties and other things. He later described him as “upbeat, energetic and chatty throughout the conversation” (see paragraph 21 at [292]). I have no reason to believe that those are not accurate descriptions of his interaction with the applicant. As set out in the earlier evidence, people respond differently to others based on their perception of them.

282. When looking at paragraph 20 Mr Singer gave what he considered to be an example of “childlike presentation” “based on the applicant’s surprise of learning things that he would expect an adult to know. The applicant was described as “aghast” when Mr Singer told about the concept of paying rent to a landlord. He described as having cooking skills which were limited previously that having been taught to cook he was now able to and in a “childlike manner” proudly listed all the dishes it was able to cook.
283. Standing back and looking at that evidence in my view it is more likely to be attributable to cultural and social differences. I accept that that was factor which Mr Singer did not seek to discount and that is to his credit. The applicant’s stated lived experiences are on his own evidence of poverty, lack of education and working as a shepherd. It is not surprising that the concept of paying rent or having a mortgage was an entirely novel idea. Similarly the described use of swear words and the applicant’s reaction to them is not inconsistent with him being older than 17. On the other hand it is equally consistent with him being 17. It is simply a reflection of humour and does not really indicate age one way or another.
284. Mr Singer was also asked in cross-examination about the evidence of other professionals whose interaction with the applicant was over a longer period. This was the evidence of Mr Reid and Mr Raza. Whilst Mr Singer did not modify his evidence he did however state “it does affect your view if there is more evidence”. I do not think that that demonstrates someone who is reluctant to take into account other evidence that is available but that he would wish to know more before reaching an opinion.
285. Whilst he also gave evidence relating to the applicant’s physical appearance and that it was consistent with that of a 17-year-old, given his written evidence that referred to the unreliability of judging age upon appearance the evidence of his physical appearance as evidence of his age does not assist in determining this particular applicant’s age. In fairness Ms Hafesji did not seek to place reliance on this part of his evidence.
286. In summary there is no reason to doubt that Mr Singer has described a good and supportive relationship with this applicant and one that was appropriate to a supporting role rather than the one which has presented any form of challenge in his interactions. This affects the weight of his opinion. I also consider that the weight attached to his opinion is limited by the length of interaction with the applicant although I would accept that this is countered by his general experience of working with young people in the context of the Project. I find his evidence to be credible and detailed and is worthy of weight in the overall assessment concerning the issue of the applicant’s age.

### Conclusions:

287. The task of the tribunal is to reach an assessment of the applicant's age is informed by the evidence. In doing so, I remind myself there is no hurdle which the applicant must overcome. In this case it is common ground that the applicant is now an adult, and the issue is whether on a balance of probability the applicant was a child when he arrived in the UK. I make no determination whatsoever on the merits of his protection claim which is the subject of a separate appeal.
288. As set out above, the local authority age assessment was the subject of detailed challenge and for the reasons given I have not found the assessment to have been unlawful in the sense that there was any procedural unfairness. However I do not conclude that each and every aspect of the age assessment's conclusions are of no weight, but I have accepted the flaws in the reasoning as identified on behalf of the applicant which are validly made and thus must necessarily affect the weight attached to that assessment. For example, the credibility issues raised relating to the social, economic and family circumstances of the applicant's life experiences in Iran, and also the failure to take into account all of the answers and reasons given in the assessment of his credibility and in the context of why he could not obtain his documents from Iran and also by asking further questions relevant to the key issue of how he knew his date of birth.
289. I have not found this a straightforward or easy case to decide and there have been weaknesses in the evidence on both sides. There is an aspect of the applicant's evidence which relates to the applicant having given a date of birth in an unknown country. It was not explored in oral evidence, and nothing is known as to what that date of birth was other than that it was not the date of birth he relies on. This is a relevant matter which I have had to weigh in the balance when undertaking an overall assessment of the evidence and in particular the credibility of the applicant's evidence.
290. When assessing the applicant's evidence, he has given consistent evidence of the date of birth he claims to be his and it is not the case that this has altered in any of his interactions with both those involved with him on a statutory basis or other non-statutory basis. He has also been consistent in his description of his social, family and economic circumstances in Iran, and the flaws in the reasoning underpinning the age assessment have been set out in the preceding paragraphs. It is of relevance to his overall credibility that when cross-examined at length about the immediate circumstances leading to him leaving his home, there were no inconsistencies identified in that evidence. The evidence that he has given as to how he knows his date of birth has been generally consistent. There was an identifiable inconsistency on the issue of whether he celebrated birthdays in Iran, and I do not accept the explanation given of being under stress to account for this omission. However it was the position that there was no follow-up questions of any substance to elicit any real understanding of how he knew his age or date of birth, and when the evidence he later gave was analysed, it is consistent with the age he gave of his siblings on arrival to more than one source. Thus the age gap identified between them is roughly consistent with the age he gives on his arrival as being nearly 16. He comes from a society



where dates of birth are known and the source of knowledge of that date of birth from his family was consistent and in circumstances which were not implausible.

291. Whilst he has been consistent on those matters, and thus are factors weighing in his favour when assessing credibility, I did not accept his account that his phone was taken by his cousin nor that he had forgotten contact details for his family notably his mother. This counts against his credibility but should be viewed in the context of the relevance of these findings which is in the context of not providing his documents.
292. The local authority have relied to a significant extent on the lack of documentation from the applicant. It is however recognised by both advocates in their submissions that the issue was whether he had given a reasonable or genuine reason for not contacting his family relatives. I have set out the reasoning on this issue and have done so by considering it in the light of the applicant's evidence but also against the background of the country materials which have provided support for the applicant's subjective fear. That is not to say I have concluded that he is at risk from the authorities and as stated this is a matter which will be assessed by a different Tribunal and by applying a different standard of proof on evidence that is advanced on a future date.
293. As part of the assessment, the local authority have also relied to some extent on aspects of the applicant's physical appearance. There has been a focus on whether he has facial hair and has shaved and whether he has an Adams apple. The age assessors relied upon those developmental considerations, and as identified also by other professionals which they deemed to be indicators of his age. Caution should be exercised when attributing weight to evidence of physical appearance and on the facts of this case I have reached the conclusion that it is been of very limited value in assessing age as recognised by the concessions made in the evidence by Ms Kiyemba.
294. When assessing the evidence of demeanour, I have found that there are weaknesses in the evidence relied upon by the respondent. Notwithstanding the professional background of Mr Reid, how he reached the opinion as to the applicant's age is not explained and reliance upon physical appearance with no supporting explanatory evidence is of limited evidential value. Similarly the evidence of Mr Raza who also did not provide a witness statement has to be viewed in the light of the evidence of Ms Kiyemba. In her evidence there were a number of important concessions made notably about the difficulties in assessing age by physical appearance but also concerning issues of demeanour and behaviour. An important part of the evidence relates to the applicant's behaviour such as not providing information and his general presentation of staying outside the placement for long periods of time during the day. Ms Kiyemba fairly accepted that he had presented in a different way to other professionals including the support workers and others who had worked with him. She further accepted that how a child presented could depend on the relationship they had with a particular individual. If an individual did not trust the other or did not feel they were being listened to that may affect the way they behave. She accepted it was a possibility that one of the reasons why he was not forthcoming was that from his

perspective theirs was not a relationship characterised by trust. I make the observation that that was a perception rather than a reality and in my view Ms Kiyemba has worked consistently and well with the applicant in the particular role that she has to carry out.

295. However I agree with Ms Hafesji that the concession should be given particular weight and it is evidence of a similar nature and consistent with that given by Mr Singer who when asked about the applicant's behaviour described in the evidence and whether it was indicative of someone older than their stated age, Mr Singer considered it would be a "red flag" if not willing to disclose information but that there may be good reasons why someone might not want to disclose information and that was necessary to look at explanations for that. My understanding of the evidence is that he thought it was less of an act of withholding information and more a case of looking at the nature of the relationship. In the same way that children do not tell their parents everything including where they are going, there are relationships where they do, and others do not. This is corroborated by general external evidence at [249]. The points made on behalf of the respondent have been addressed in the challenge to the evidence and upon my analysis I find that they cannot be attributed in any reliable way to a dishonest account of his age.
296. I have taken into account the other observational evidence as set out in the analysis of the evidence. There is some support for the applicant set out in the evidence of his peers, MM and EM, both of whom have interacted with the applicant in everyday life situations including college and by spending time with each other. They are of a similar age and background to the applicant to the applicant. One matter of evidential significance is that MM and EM, and Ms Tait and Mr Singer have all given evidence independently of each other as to the effect upon the applicant when in adult accommodation and his reaction to it. That evidence is consistent with what has been set out in the case notes in November 2021 and I find is also consistent with the applicant being of a younger age.
297. Whilst acknowledging there is no document giving the date of birth of the applicant I conclude that the overall evidence when analysed is supportive of the age he claims to be, and the date of birth is consistently given. Thus drawing the above analysis together and having considered the entirety of the evidence "in the round" and to the balance of probability standard, doing the best I can and adopting a sympathetic approach, I find the applicant's probable date of birth is that which he has consistently given as 23 October 2005.

#### Decision:

I find that the applicant was born on 23 October 2005, and I make a declaration to that effect.

*Upper Tribunal Judge Reeds*

19 June 2024