



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

APPEAL NUMBER: PA/06274/2016

THE IMMIGRATION ACTS

**Heard at: Field House
On: 2 May 2018**

**Decision and Reasons Promulgated
On: 26 June 2018**

Before

Deputy Upper Tribunal Judge Mailer

Between

**[S N]
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Ms R Francis, counsel (instructed by Duncan Lewis & Co)

For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

2. The appellant is a 19 year old national of Afghanistan who claimed to have fled Afghanistan in fear of the Taliban.
3. On 19 June 2014 First-tier Tribunal Judge Hodgkinson considered the appellant's 'upgrade appeal' under section 83 of the Nationality Immigration and Asylum Act 2002. The appeal was limited to the issue of asylum. He dismissed his appeal and found that the core elements of his asylum claim lacked credibility. He was satisfied that the appellant's immediate family, including his father, continue to live in their home address in Afghanistan and that the appellant can rejoin them there. The Taliban had showed no interest in him or any member of his family – [35].
4. There was no appeal against that decision.
5. In January 2016 he applied for further leave to remain and made protection and human rights claims. This was refused by the respondent in a decision dated 6 June 2016. He appealed against that decision on the grounds that his removal would breach the Refugee Convention, in relation to humanitarian protection and would be unlawful on human rights grounds.
6. In a decision promulgated on 14 July 2017 First-tier Tribunal Judge Davidson dismissed his asylum, humanitarian claims but allowed his appeal under Article 8.
7. There were cross appeals against Judge Davidson's decision. Permission to appeal was granted to both parties.
8. At the error of law hearing before the Upper Tribunal on 25 January 2018 Mr Kotas on behalf of the respondent and Ms Francis on behalf of the appellant both conceded that the decision of the First-tier Tribunal involved the making of errors on a point of law.
9. It was contended on behalf of the appellant that extensive background evidence in the appellant's bundle as well as the country expert report of Ms Winterbotham had not been properly addressed. Nor was there reference to the expert report from Dr Thomas, commenting on the impact of the trauma on the appellant's memory, his recall and ability to give evidence. Nor was there reference to the guidance produced from case law in respect of child appellants and vulnerable witnesses set out in the various guidelines as referred to in counsel's skeleton argument before the First-tier Tribunal.
10. With regard to the Article 8 claim there was no identification by the Judge as to what made this particular case exceptional or compelling, so as to warrant consideration outside the Immigration Rules.
11. In the circumstances the decision was set aside to be re-made at a hearing before the Upper Tribunal. Various directions were made.

Remaking the decision

Hearing on 14 March 2018

12. The appellant produced a very lengthy updated bundle containing 941 pages, which included further background evidence. The respondent's bundle was also produced.
13. Ms Francis, who represented the appellant before the First-tier Tribunal in July 2017, requested an anonymity direction, particularly on the basis of the appellant's

vulnerability. There was no objection. I accordingly continued the anonymity direction which had also been made by First-tier Tribunal Judge Davidson in July 2017.

14. Ms Francis also applied for the hearing to be heard in camera. I declined to make such order. As it turned out, there were no members of the public present. Throughout the hearing on 14 March and 2 May 2018, no members of the public, not involved in the appeal, were present during the hearing.

The appellant's evidence

15. The appellant attended the hearing and gave evidence. He adopted his witness statement signed and dated on 3 July 2017, produced at A2-16. This is the same statement that was before the First-tier Tribunal. The contents set out the evidence relied on up to 3 July 2017
16. I have also had regard to the appellant's second (addendum) witness statement signed and dated on 27 February 2018, produced from pages 783-788.
17. The appellant stated that he is an Afghan national from a village in Nangarhar. He has a sister and two brothers all of whom are younger than him. He is from the village of Miran in Surkh-Rud which is very remote. There is no street to connect it to any city. It takes almost an hour to get to the city of Jalalabad. Apart from going there and on a family visit to Kabul, he has not travelled anywhere outside his home area.
18. No other family members are in Afghanistan.
19. He was born in 1998 and does not remember much of the Taliban government. Due to the remoteness of his village the police could not get there. There would often be violence and robberies. People often came to the village with guns, including AK47s, which he found intimidating.
20. His parents protected him by not letting him travel alone. He was only allowed to go to his school and home.
21. He lived in a small house containing three rooms. There was a small farm as part of the house. He went to school in the area. He would walk 40 minutes to get there. He studied various subjects at school including a bit of English as well.
22. His father was very educated and spoke English. He would teach the him English at night. He studied for about ten years in total.
23. His family had enough money to live on.
24. When he was about 12 years old his father got a job working as an interpreter for an American organisation. He worked six days a week, leaving the house in the morning and returning in the evening. Sometimes he would be gone for more than one day. He told him that he was a translator for the Americans.
25. He did not have strong opinions about his father's job. After his father worked with the Americans for about two years he received a threatening letter from the Taliban. It arrived at his house at night. It was left outside the house. His mother found it and gave it to his father. His father went back to work as usual.
26. A week later five people came to the house and took his father away. The men were masked. He knew that these were from the Taliban both from the letter sent a week before and what they said to his father.

27. He was sleeping when the incident occurred. They were saying things to his father like they told him to stop but he did not listen. His father's hands were tied.
28. After his father was taken his mother went to his maternal uncle. His family then went to stay with his uncle for a few days at his farm before returning home.
29. He thinks his uncle may have reported his father's kidnapping to the police, as he told them he was going to do, but he does not know for sure.
30. He did not go to school for a few days after that. He was very sad and was only thinking about his father.
31. A week after his father's kidnapping another letter was received, this time from the Taliban which was addressed to him (the appellant). The letter stated that he was learning English and that he wanted to be like his father. He needed to go to a Taliban school to learn to be like them. If he did not go to a Taliban school, they would kill him.
32. His mother picked up the letter that had been sent to his father and compared it with that sent to him. They had not shown him the letter that was sent to his father. He heard his parents discussing it. His mother then showed him both letters and asked him to read them. She was not educated so she wanted him to read them. He only saw the letter for as long as it took him to read them.
33. It was only after his mother sent the letters to him in the UK that he looked at them in detail. He found it difficult to describe the letters in his previous asylum claim as he did not have them and had not seen them for years. He was thirteen when this happened. He remembered that the signature and the handwriting was the same but he could not exactly remember what they said.
34. His mother told him that she did not want what happened to his father to happen to him. She spoke about the situation with his uncle. His uncle sold land to pay an agent. A week after receiving the letter he was able to leave Afghanistan. When he left his mother and uncle were very sad and were crying. At that time "neither my uncle nor uncle" (presumably 'mother') had a mobile phone or contact number. He was worried that he would never speak to them again.
35. The did not tell him where he was going. He was told he was going to a safe place.
36. He went with the agent and travelled to Pakistan, Iran, Turkey and then Greece. He arrived at an island in Greece with a group of about 20 people. There was a mixture of children and adults. The police arrested them all. There were already some female asylum seekers at the police station. He spent a day whilst everyone was fingerprinted. They were released. They went to the bus station. The same agent picked them up and took them to a flat. All twenty were kept there and they were not allowed to go out.
37. After about ten days the agent put them in a van and took them to a port. It was hot in the van. They had nothing to drink. They broke the window to escape. They went around trying to find water. They broke the windows of cars and lorries before finding water. They stayed in the cargo until the morning when they arrived in Italy. The driver then saw them and called security who in turn called the police.

38. The Italian police beat them by punching and kicking them. They were locked in the ship's toilet. The boat went back to Greece.
39. When arriving in Greece the police met them. They were taken to a police station. This was the same island that they had been on before. There were about 70 people in the room. They were kept there for 40 days. They were only given a roll with chips inside and water every day. They did not feel safe enough to sleep all night. They were treated like animals there. He could not shower or wash clothes while there.
40. The police would take ten people from this place every week and replace them with ten more. After 40 days they were taken to a "bigger place". There were 20 people who had been there for between one and two years. They were all asylum seekers from different places.
41. This was a better place than the other place. It was in a very remote area. He could only see a motorway and fields. On occasion there was a problem with food. Some people began to riot. The police called the army and they were all attacked. At that time he was at a hospital appointment at the island.
42. After this he was in the centre for two months. He claimed asylum in Greece. He was told the only way he could leave was to claim asylum. He then signed papers because he wanted to claim asylum. He was released after that. A week after he left the centre, he left Greece. He called the agent who had taken him to Greece. He still had his number and was able to make contact.
43. They left Greece and travelled by lorry to Italy. There were only three of them in the lorry this time. After his experiences in Greece he could not stay there. He was treated worse than an animal by the Greek authorities. They did not care that he was a child and put him a detention centre with adults. It was a horrible experience for him. Whenever he thinks about it, it makes him sad. He tries to avoid feelings like this and does not want to speak about it. He used to have flashbacks when he first arrived in the UK. When he started going to school and becoming very busy he tried his best to forget what happened to him and to carry on his life.
44. If he talks about Greece or when he sees something that reminds him of his experiences, he starts to think about what happened to him again.
45. After leaving Greece they were taken to the Jungle in Calais where they stayed for two weeks before the agent took them to get a lorry to the UK. They were told they were going to a safe place.
46. They got out "by High Barnet Council." When the office opened he went inside. He could not speak English very well. He was given a Farsi interpreter. He explained his situation. They found him a foster family who could speak the language. He then began the asylum process.
47. After a week his foster family took him to a solicitor, "an Afghan guy."
48. He was scared during his interview and did not understand what the interpreter was saying sometimes. He asked him to repeat and clarify. He did not know what "uniform" meant when he was asked what uniform his father wore. He stated that he wore white clothes which was taken to mean that he was lying as interpreters do not wear uniforms.

49. When he was in court on the first occasion (before First-tier Tribunal Judge Hodgkinson) in June 2014 he had a bad experience. The Home Office barrister asked him a number of questions. He claims that his representative said nothing to protect him. He had never met her before the hearing. He was nervous that the Tribunal would think he was lying.
50. He did not want to talk about what happened to him in Greece as it was very traumatic. Whenever he thinks about it, it makes him cry. The police did not care.
51. He did not feel comfortable talking about his experiences in Greece. The first person he told about this was his foster mother. He did not tell his previous representative about what happened to him. He did not want to talk about this as it caused him bad feelings and brought up bad memories.
52. He became more open to talking about this when he joined a theatre group called [PT]. He felt comfortable and amongst people who would understand what happened to him.
53. At the [PT] he met [K]. He was aware of her as she was the key worker of one of his friends who lived at one of the houses owned by an Afghan association. He was aware that she was planning a project which became “[DHO]”. He was told that other boys in the play are unaccompanied asylum seeking children and the play was about experiences as refugees.
54. He went to a meeting about this. They all spoke about experiences. He was comfortable and confident enough to trust [K] and to open up about what had happened. He got to know her more and more and trusted her more and opened up everything about his life and experiences.
55. They have become very close when they travelled to Edinburgh to present “[DHO]” at the Edinburgh Festival. They have spent time together by themselves. She helped him a lot after they returned from Edinburgh. She helped him with the Council and his accommodation. He moved far away from her so began to stay at her house in Kilburn. Eventually their friendship became “a romantic relationship.” He has been in a relationship with her ever since.
56. [K] advised him to talk to his lawyer about what happened in Greece and other issues. He did so. He has a great relationship with her and all of her family. Her parents are kind and caring people. They have helped him with many things such as car insurance and applying to university.
57. If removed to Afghanistan, he would leave the most important people in his life. They are a family and he feels part of it. He wants to have a future with [K]. Whenever he thinks about her and a future with her he has to stop. Everything is uncertain.
58. He has a big group of friends in London from his community and college and mosque.
59. He started school in 2013 and he was in the last six weeks of Year 9. His main teacher was very kind and friendly. They had lessons like drama. He had never done anything like that but enjoyed it. In Year 11 he “did my bronze arts award.”
60. His English got better and he kept up with classes more easily in 2015. He left school with 7 GCSEs and went to college in north west London to do electrical installation level 2. After passing that he moved to Uxbridge College to do a Level 3 which he

passed on the first occasion. He hopes to get a job as an electrician's mate as well as working in the theatre company and then to apply to university in January.

61. He has enjoyed being part of [PT] with seven other boys who came to the UK on their own. They had money from the Arts Council to "make a play" called "[DHO]" about their experiences. They took the play to the Edinburgh Fringe Festival which was an amazing week. The television and radio people were interested in them. He was interviewed by Radio Scotland and STV news and a podcast. They also performed the play six times in London. One of the persons he spoke to now helps in a refugee charity in Scotland. They have completed filming after a producer from New York gave them money to make a film of the play.
62. They received Arts Council funding again and are working on their next play. He completed his silver arts award and did a workshop with people training to be mentors at the Afghan association [P]. There is funding to do workshops for 20 schools.
63. He is worried that if he has to go back to Afghanistan he would not be able to do any acting any more. If the Taliban found out he was in plays or saw the film it would be bad for him. He and other Afghan boys have shared links to all the "play stuff" on Facebook and it is possible that people in Afghanistan might know it and remember.
64. He has been able to speak to his mother in Afghanistan on occasion. He made contact with her in 2015 after he had been here for two years and after he was able to get in contact with one of his family members on Facebook. It is difficult to speak to her as there is often no electricity but sometimes she is able to call him.
65. He asks about what is happening in Afghanistan but she does not want to tell him about it. She tells him to continue with studies. He does not know what is happening with his brothers and sisters as he has never spoken to them. He does not know where she is as she does not say.
66. She was able to help him by sending the Taliban threat letters. He sent these to the Home Office in support of his application. He cannot remember the last time he spoke to his mother. If returned to Afghanistan there would be no life for him. The Taliban hate England.
67. His father inspired him to practice and learn English which he now speaks well. He wants to stay in England and complete his education and have a life.
68. Ms Francis then interposed to play a five minute extract of a recorded performance with the [PT]. The appellant and a number of other young men took part in the show.
69. In his recent statement dated 27 February 2018, updating his earlier statement dated 3 July 2017, he stated that he has continued to be involved with [PT].
70. In 2017 they returned to Edinburgh to present the show "[DHO] 2: Still Pending". They had seven shows. They interviewed people and took pictures of their responses to questions they asked about how they would make refugees feel welcome. Hundreds of people went to the show and were interested in it again.
71. After returning from Edinburgh they continued to perform the show at other theatres in London, Oxford and Reading. They are performing at the Bristol Theatre in March and may also be performing in Sheffield. He now has a "bigger part." He continues to enjoy this.

72. He has started to do more workshops related to the topic of refugees and asylum seekers. They have undertaken workshops for teachers, social worker students at the University of East London and four workshops for ESOL students.
73. He explained the significance of these workshops and activities. This includes role playing. They have received positive feedback.
74. He still has a social worker and a personal advisor. [PT] is planning to produce a third play shortly and he will be part of it. One of the ideas relates to mental health and how it affects asylum seekers.
75. He enjoys acting and wants to continue this. He still has hopes for the future. He wants to have a life and career here. He has been doing training at college and wants to become a qualified electrician. He was prevented from working. He recently did an internship for an electrical company.
76. He found his last hearing to be stressful and upsetting. He burst into tears after the hearing had finished.

Cross-examination of the appellant

77. When he was in Afghanistan the family consisted of his mother, father and siblings. He was referred to paragraph 5 of his 2017 witness statement where he said that he has no family members anywhere else in Afghanistan. He said there is the uncle who helped him escape, who also has a wife and children.
78. They were not far from him. They were in the same village. It is about 15 minutes away. He has always had a good relationship with him and his family. He helped him escape.
79. He was referred to the report of his psychologist following an interview and clinical visit. The consultant clinical psychologist, Dr Rachel Thomas, followed a letter of instructions from his solicitors. She had regard to various documents set out at page 8 of her report, including the First-tier Tribunal determination on 26 June 2014. She said that she considered the documentation together with the appellant's account of his history provided "in the context of this interview."
80. She recorded that the appellant reported that there were difficulties in the family as his father on the one hand and his uncle and cousins on the other were involved in a family feud in which the appellant said that as a child he found to be sad and scary. Sometimes there were physical fights within the family on account of this. They have had to deal with property and territory disputes.
81. Mr Kotas put to him that this is the opposite of what he stated in his 2017 witness statement concerning his uncle. He replied that there are always problems but "we do help each other." As a child he saw arguments. This did not mean however that he did not go to his house.
82. Mr Kotas put to him that paragraph 7 in Dr Thomas's statement is the truth. The family did not get on with his uncle's family and cousins. He said they deceived each other. His uncle helped him escape.
83. He confirmed paragraph 9 of Dr Thomas's statement that he was also subjected to physical abuse throughout his time at school in Afghanistan. He also had problems

in Greece as confirmed at paragraph 56-57 and 65 of his witness statement. He said that these were traumatic experiences.

84. It was put to him that the psychologist said that he presented with psychiatric symptoms of major depressive disorder secondary to his past and current life circumstances. This was rated currently as moderate-severe. He is practising what is commonly a symptom of post traumatic stress disorder, significant avoidance of talking, thinking or remembering his past experiences or current immigration situation. During these times his mood is artificially elevated at times due to the fact that he is successful in employing these strategies for a short period of time. Every few days at least these avoidance attempts break down and he is rather overcome with depressive symptoms and affect which has been held at bay. This is a depressive disorder characterised by significant post traumatic traits. She refers to the symptoms and the manifestation in the report.
85. He said that this arose as a result of what happened to him in Greece and his whole journey here. He did not tell his old solicitors as this was too traumatic. He saw his psychiatrist in 2017. He has never been to a GP regarding this. He has been to the GP in respect of his nose. He had a sinus problem. He had an operation in the UK which is referred to at paragraph 41, page 117/118. He remains under the care of the hospital audiology and ENT specialist.
86. Mr Kotas put to him that he came to the UK in 2013. If he was having problems as a result of his experiences why did he not go to a GP? He said that he did not know what could help him. His foster carers did not speak to him about this.
87. When he left Afghanistan he did not have any contact numbers for his father. He agreed that his family paid agents to assist him to come.
88. It was put to him that as the oldest child, going on a long journey, his parents would want to know that he had arrived. He said that this did not happen. He only received the contact number in 2015. He gave the contact number to a family friend on Facebook. He was then called.
89. He has seen the family friend whilst they were in Jalalabad. He remembers them coming to see his family when he was there. He is a friend of his father's, a family friend. This occurred as a result of a chance meeting on Facebook. He then gave this person his contact number.
90. His mother calls him. He cannot call her. There is no network in the village. He speaks to her about how he is. She does not speak about his father. His siblings are fine. He speaks to her about six or seven times a year. He last spoke to her in 2018.
91. He was referred to paragraph 92 of his 2017 witness statement. There he stated that he cannot remember the last time he spoke to his mother, and that she did not even call him during Eid. He said that statement was made in July 2017. She has since called him. She is in Jalalabad. He was referred to paragraph 90 of his 2017 statement where he stated that he does not know where his mother is as she does not say. He was asked how he now knows. He said that she is in Jalalabad. His siblings do not speak to him. It was put to him that he has been untruthful about his family circumstances in Afghanistan. He denied that.

92. He does not know how she supports herself. His uncle is there. She remains with his siblings. He does not know what they are doing.
93. He was referred to the “night letters” at A1-2 of the respondent's bundle and A97 of his bundle. This is a translation corresponding to 4 April 2012 from the person in charge of the military frontline of the Islamic Emirate of Afghanistan.
94. That letter states that “we” sent a message to your father to avoid doing “slavery for Americans”. However, he does his previous job. They also received another notification that “same as your father you also want to learn American language.” This means that he is following English courses and other inadmissible studies. He was “advised” to leave these inadmissible studies and come to their 'Madrassa (religious school) located in Shirzad District so that they will “...shadow you with our own guidance and that will make this world and hereafter world better for you. Possibly, if you do not do this, then once again as a warning tell you we will wipe out you and your entire family dead and alive.”
95. It was put to him that this is not the same translation that occurs in the respondent's bundle. The translation at page 97-98 of the appellant's bundle, which refers to another alleged night letter corresponding to March 2012, is differently translated¹ .
96. The March 2012 letter from the Islamic Emirate of Afghanistan, is addressed to “Dear brother [SW]”. It is asserted that they have been informed that he works as an interpreter/translator at the office of the Americans. He is advised not to do this job and instead join the mujahadin or Islamic Emirate of Afghanistan. If he does not do this “.. then we will do our action very swift. Therefore, at the end as a warning, we tell you that we will kill either you or your entire family members. Now the authority of judgment is in your hands.”
97. The appellant said that the letters were not before the Tribunal at the hearing in 2014. He only got them when he applied for an extension in 2015. He did not know where his mother kept them. He does not know whether she took them to the police. She sent them to him. He did not have contact with the family before that. A copy of the envelope in which the letters were sent is produced at A3 of the respondent's bundle. The date stamp is 9 October 2015, sent to [-] Road, North Wembley in London. It is stated to be from “Afghanistan Nangarhar, Jalalabad City. There is also a mobile number identified.
98. He was referred to paragraph 64 at page 10 of his 2017 witness statement. There he stated that he had a bad experience in court when he appeared before Judge Hodgkinson in 2014. He claimed that they did not tell him to speak about Greece or his journey. He was not feeling confident. He did not do a good job. He did not complain about them.
99. Mr Kotas asked the appellant whether he could not have asked his mother to obtain evidence. He says this is all she was thinking. He asked for everything to prove that his father was a translator and this is all he got. There is nothing from the American forces.

¹ Ms Francis submitted that the substance is the same albeit that it is 'stylistically different'.

100. He agreed that he has managed to do well in this country. He has gone to college. He has been in a relationship with [K] for over a year. He is not on medication. He does not take sleeping tablets.
101. The psychologist advised him to take pills and stated that it would help him to talk to someone. Mr Kotas referred to paragraph 50 at page A120 of Dr Thomas's report. She recorded that the appellant reported a history of "suicidality" and described in this interview of having made two previous attempts on his life when he apparently cut his arms when stressed about the situation.
102. Dr Thomas noted that he stated that the first attempt on his life was in 2014 and he said to her that he still has scars from that time when he cut himself. He did not tell or show anyone what he had done, not even his foster mother, and did not seek any medical attention as when he failed in ending his life he had not wanted anyone to know what he had done so he hid it. To this day, only his girlfriend and solicitor know about this.
103. Dr Thomas reported that the second attempt occurred less than a month after that. He attempted to carve "F*** life" into his forearm. Again he told nobody what he had done and did not seek medical attention. He showed Dr Thomas his arm at interview when the scars were visible.
104. The appellant agreed that he was not hospitalised as a result of cutting himself. Mr Kotas asked whether he was really trying to commit suicide. He said "I think so. I didn't tell my foster family. I put a bandage on my hand."
105. It was put to him that there is no scarring report. He said that he did not go to the GP concerning the suicide attempts. He said that a lot of his anxiety relates to his status and it is part of everything that has happened. He did not exaggerate to the psychologist what happened. He did not speak to others. Dr Thomas had his statement - page 106.
106. Mr Kotas put to him that he has made up a story about what happened to his father. He denied this and said that he did not come here merely for a better life.
107. In re-examination he said that he spoke of the experiences in Greece for the first time to his foster mother a few months after his arrival. When asked what he felt about going for counselling, he said it is stressful talking about this. He does not know what would enable him to go to counselling. The asylum appeal impacts on his safety. He is concerned about this.
108. His mother has no education. She cannot read or write. He was 14 or 15 when he first came to court in 2014.
109. [K] attended the hearing and gave evidence. She adopted her witness statement dated 3 July 2017 at A17-24 and a further statement on behalf of [PT] which is undated.
110. She is a Senior Manager at [P], a refugee community association. She manages and oversees the family services department. Before that she served as a mentor for unaccompanied asylum seeking minors. The organisation is funded by the Arts Council. She set out the activities which are undertaken.

111. She initially worked with young men in her housing project. Her mother, [DH], adapted stories into a script which they named “[DHO]”.
112. She set out the appellant's involvement with the company. He spoke to her in fluent English. He wanted his story to be given by himself and not anonymously. His story was incorporated in the script. She did not have much of a personal relationship with him whilst they prepared for the Edinburgh Fringe Festival. Whilst in Edinburgh she got to know him on a personal level. On return from Edinburgh the friendship continued and they began to socialise. He frequently stayed over at her flat as he went to a college which was closer than where he was living.
113. Their relationship became romantic soon afterwards. Over time she realised that it was a “serious” one. She is supportive of him and about his past and previous mental health difficulties including his self harm. Over time he trusted her enough to discuss what had happened to him. It is very “atypical” for an Afghan young man to have a girlfriend and it is unheard for them to be in a relationship with a white British girl.
114. He supports her in her studies and encourages her to work hard. He is a crucial member of her team and looks after her. To continue her relationship with him transnationally would be incredibly difficult.
115. In her recent statement she has set out further details of the various outreach workshops in 2017 and 2018. The feedback that she compiled demonstrated that persons that have heard parts of his story offered advice. The Arts Council have recognised the importance of his work.
116. After the outreach programme of 20 workshops is complete the appellant and others will attend more training. Based on her seven year experience working in the applied theatre she sees the appellant as a strong workshop leader. His involvement is paramount to the success of the [PT]'s outreach work.
117. In her oral evidence she emphasised the statements. She runs workshops with the appellant. With regard to her claim that this is a “unique” project she said that there are some organisations which have refugee presentations, however they have personal relationships with the refugee. He has a knack of making people feel at ease. He has spoken about his PTSD experiences. This makes a huge impact.
118. In cross examination she said she has been in a relationship for about one and a half years. It is a committed relationship. They are not living together. He lives with a friend. He stays over about four nights a week.
119. She knows some amount of his life in Afghanistan. He is a loving and kind person who has integrity. He attends family events. They support each other and work together professionally. The work has been cathartic for him. He has nightmares. He grabs hold of her and struggles to sleep.
120. He has had contact with his family. He speaks to his mother. He finds it upsetting to talk about his family. He does not speak a lot about his siblings.
121. [DH] attended the hearing and gave evidence. She adopted her witness statement dated 28 June 2017. At the date of her statement, she has known the appellant for 14 months in her capacity as Artistic Director of the [PT]. She has set out her previous experience including that as a television writer. The [PT] was set up by her and her daughter [K] after young men in a supported housing project wanted to tell their

stories. She has written a play about unaccompanied asylum seeking children. [K] was in that play.

122. The appellant is one of the founding members of their theatre company. She referred to the media attention when the play was performed at the Edinburgh Fringe. TV and radio interviews across the week took place. The appellant was interviewed at the time including by BBC Radio Scotland. He has a profound effect on an audience member who went on to volunteer in Calais for a refugee charity.
123. His value to the company is huge as a performer. He has a positive influence on other young men and he is an ambassador for the group.
124. Her relationship with the appellant has always been particularly strong. He has been a calm and consistent role model for the others who still struggle with focus and concentration.
125. She is pleased to welcome him into her family as her daughter's boyfriend. She sees him at [K]'s flat every weekend at the moment while they are in rehearsals.
126. The appellant could have a bright future working in the company if he is able. This is one of seven companies shortlisted for the Amnesty Freedom of Expression Award.
127. In her oral evidence she said that in addition to what was mentioned in her statement, there have been recent bookings relating to staff training events to be taught by the appellant and her daughter. He will be speaking at a psychology conference about PTSD. He has been asked to be on ITV News. An update on activities in the [PT] since July 2017 is set out at p.791. For professional people the activity is informative and unique.
128. I have had regard to various supporting letters set out at Tab A of the bundle.

Expert reports

129. I have had regard to the medical report of Dr Thomas, the report of Emily Winterbotham and the report by Mr Jawad Zadeh.

Report of Dr Thomas dated 1 July 2017

130. I have already referred to parts of her report put to the appellant when he was cross examined.
131. Dr Thomas interviewed the appellant on 17 June 2017. It is her opinion that the current psychiatric symptoms of major depressive disorder that he displays relate entirely to his traumatic past experience in Afghanistan and Greece. Also of causal significance is his current insecure immigration status as a failed asylum seeker – paragraph 68-69.
132. In her summary she stated that he is a psychiatrically unwell young man who presented in consultation in a manner entirely consistent with an individual suffering from moderate/severe symptoms of Major Depressive Disorder with some significant post traumatic traits. The cause of the disorder is “unquestionably” his past traumatic experiences in Afghanistan and in Greece. His unresolved status is a further important determining factor.
133. There has been no updating evidence since that report was written.

Report of Ms Emily Winterbotham dated 1 July 2017

134. Ms Winterbotham is a Senior Research Fellow at Royal United Services Institute. She has experience of Afghanistan, having worked there between 2009 and 2015. She conducts research into the country. Her report is dated 1 July 2017, and pre-dates the recently promulgated country guidance decision in AS (Safety of Kabul) Afghanistan CG [2018] UKUT 00118 (IAC).
135. At paragraph 94 of her report she asserts that the decision in AK (Article 15(c)) Afghanistan CG [2012]², is out of date regarding the level of indiscriminate violence in Kabul. The level of violence there has clearly increased to such a degree that the indiscriminate violence is increasingly common. Her conclusions are set out at pages 199. Interpreters are rated as priority targets among “collaborationists.” Daesh/ISKP fighters are now also targeting Afghan local police and members of local uprising groups. The practice is to force government officials and others including interpreters to quit their position.
136. The appellant's ‘...description of letters being sent to him and his father are highly plausible’ (sic), (paragraph 96). Returnees from Europe experience more difficulties than returnees from Pakistan or Iran due to their more Westernised appearance. Given the appellant's fluent English and his background as a teenager who grew up in the UK he will be identified as “westernised” and be at risk of being a target of discrimination and perhaps danger. His relationship with a British woman, if it becomes known, is likely to exacerbate his perceived “westernisation.”
137. The specific nature of his production is liable to increase perceptions of his westernisation. Given the production's impressive circulation and his details being online including podcasts, his ability to maintain a low profile may be compromised in the light of the Taliban's increasing digital fluency. It is likely that he will face significant risk if his role in the play were discovered or the activities of the play were reported in Afghanistan.
138. Employment is extremely difficult to find particularly for recent returnees. The prospects for finding work are likely to be low, despite having obtained GCSEs and speaking English. There are reports of vulnerable groups including returnees, poor urban youth and internally displaced people facing visible restrictions to accessing health services. There are a number of paid Taliban agents and informers in Kabul.
139. The insecurity that has spread across Afghanistan has significantly affected Mangara which has experienced a surge of insecurity as a result of the Taliban's presence but also the presence of ISIS in the province. The situation has changed significantly since the promulgation of AK (Afghanistan) in 2012.
140. Security has broken down in Kabul City, in particular in the past two years. There are real concerns that the Afghan government and security forces are unable to protect even the most heavily guarded areas of the city following the attack on the diplomatic area on 31 May 2017.
141. There has been no update to her July 2017 report.

² which remains unaffected since the promulgation of AS

Report of Mr Jawad Hassan Zadeh dated 20 June 2016

142. I have also had regard to the report of Mr Jawad Hassan Zadeh dated 20 June 2016, at pp.205-219. He is an Afghan national who is now naturalised as a British citizen. He stated that he has prepared 657 expert reports for law firms and government institutions, based in Greece, the Netherlands, Slovenia and the UK and the USA. Over the past 23 years he has continually dealt with a large number of Afghan documents. From 1994 to the date of his statement he has handled about 10,000 'Afghan documents'.
143. He has set out his qualifications as well as his membership of various associations in the UK. He is a member of the National Handwriting Association in the UK. He is a member of the British Institute of Graphologists. He has 23 years of practical experience of handling Afghan documents. He has over ten years' experience authenticating them.
144. In most of his expert reports, his expertise and capability in verifying Afghan documents has been accepted by respondents and by Judges. In some cases Judges have formed their own view about the genuineness of Afghani documents. In some case his expert opinion has been rejected - p208.
145. He set out his methodology described in the authentication of documents, under the examination of a questioned document. It is not simply on the handwriting but it is more about applying a holistic approach with a recognised methodology to the document in its entirety.
146. He has outlined the general set of guidelines for documents issued by the Taliban in Afghanistan at pages 6-7 of his report.
147. He stated that according to the US Department of State and the UNHCR the Taliban issue letters to Afghan citizens. They include different types of subjects and different types of threats. These threats vary from one case to another. The punishment for those ignoring their calls are inhumane and degrading. The Taliban threaten and target those perceived to be supportive of the Afghan government and the international forces.
148. He has provided the "tests" where some forensic equipment has been used:
 - i. Forensic tests
 - ii: Handwriting analysis and
 - iii. Language analysis.
149. As to the forensic tests, he has used different levels of magnification, low, medium and high to check for traces of tampering and modification not capable of being detected by the naked eye.
150. The documents in question, in terms of their format, display the correct Taliban letters' components. The heading, emblem and writings are standard and in recent years hundreds of threat letters of this type have come from the eastern province of Nangahar. The Taliban threat letters are printed on A4 paper. Sometimes they may have a smaller size.
151. Both of the threat letters displayed tight writing in Arabic. Both start with handwritten religious Arabic writing. Both rubber stamps contain the Arabic Islamic creed. The

Taliban are a religious and ethno-tribal movement of Pashtun ethnic group. They rely heavily on Arabic religious texts.

152. Both threat letters are in Pashto, the language of Pashtuns. Some are also issued in Farsi/Dari. The rubber stamps on both threat letters contain correct information.
153. The date of issue of these threat letters are in the Saudi Arabian official calendar, known as the Islamic calendar. The Taliban have used this calendar in their documents since they set foot on Afghan soil in 1993.
154. The information in these two threat letters is consistent with the Taliban threats. The Taliban members formulate their threats in a unique way and these two letters show that uniqueness "very well." Both threat letters' contents are clear and legible. The handwriting of both threat letters follow the Afghan hand writing style. The Taliban templates, which are "letterhead templates" contain some printing including their emblem. This type of printing is available in Afghanistan and some neighbouring countries.
155. The signatory of both threat letters is the same person, Mullah Haidari. The handwriting of both letters is identical. In looking for handwriting forgeries such as disguise, then comparing the handwriting will be relevant. In this case the writing is by the same person with the same handwriting and the same pen. The envelope used for posting these two letters from Afghanistan to the UK contains some handwriting in English.
156. The pen used on the envelope is a dark blue ink of ball point type, the pen used for writing the threat letters is a light blue ball point type. Although the envelope contains one Pashto word, all the rest are written in English, he is still able to make comparisons of different languages. The English and Pashto handwriting do not display correlations and similarities in slants, size of letters, upper zone, middle zone and lower zone writing. There cannot be similar patterns between the envelope and the threat letters' handwriting. This adds to the credibility of the threat letters.
157. He deals with the age of the document. Fake wear and tear is used to make a new looking document look older than it is. Both letters are very much affected by exposure to liquid.
158. He received an email from Jamie Bell on 16 June 2017 following his meeting with [SN]. It is the explanation of [SN] that the drops of water come from a leak from the roof of a mud house. Mr Zadeh stated that he is aware of roofing problems in Afghanistan. Roofs are protected by layers of mud and a floor which requires renewal each year. This is a well known problem for all Afghan citizens.
159. Having considered the colour, drops, the uneven spreading of the drops, he is 'convicted' that the wear and tear in fact could have been affected by leaking water in a mud house.
160. The paper is available in markets in Afghanistan. The handwritten information recorded in the two said letters does not show abnormal pen list. The ink is ball point and is resistant to humidity and liquid. Both documents show correct feel, look and texture of a standard photocopy and print paper.

161. He claims that he is aware of the issue of forgery of Afghan documents. He referred to the Danish fact finding report dated March 2012 as well as the Guardian article titled "Boom Time For Afghanistan's People Smugglers" dated 2012.
162. The Afghan governments have been prosecuting document forgers since 1980. The government has taken a very harsh stance against the Taliban, their supporters and their patrons. Forging, buying or selling a Taliban letter in Afghanistan is regarded as aiding and abetting a terrorist which carries a prison sentence of up to 5-10 years.
163. He concluded by stating that he does not just authenticate documents because they look good. Sometimes the best quality documents fail tests of genuineness. The documents under examination do not display signs of additions, erasures, tampering or indentations. These characteristics are regarded as the tenure of forgery.
164. Based on the tests and observations he believes that the two threat letters displayed are correct and genuine Taliban threat letters issued in Kandahar.

Submissions

165. Mr Kotas commenced his submissions on 14 March 2018. However, as there was not sufficient time to complete the hearing, the matter was adjourned to 2 May 2018 for submissions from both representatives.
166. In his oral submissions on 14 March, Mr Kotas relied on the reasons for refusal. Following the decision of First-tier Tribunal Judge Hodgkinson in 2014 further evidence has been produced. Notwithstanding that evidence, it does not advance the case following Judge Hodgkinson's findings. These should not be departed from. He submitted that the appellant has fabricated his claim.
167. He dealt briefly with the reports of Dr Thomas, Mr Zadeh and Ms Winterbotham.
168. He submitted that the relevant findings of Judge Hodgkinson have not been undermined.

The hearing on 2 May 2018

169. Since the hearing on 14 March both Mr Kotas and Ms Francis have produced written submissions.
170. Mr Kotas has prepared written submissions on behalf of the respondent dated 22 March 2018 which are some 25 pages in length.
171. I have also had regard to Ms Francis's written submissions. There are three sets of written submissions. The first is dated 13 March 2018 which also contained an annex with written submissions. That skeleton is 44 pages in length.
172. Ms Francis has produced further written submissions in reply to the written submissions produced by Mr Kotas. She has recently produced a third set of written submissions following the promulgation of the Upper Tribunal decision in AS (Safety of Kabul) Afghanistan CG [2018] UKUT 00118 on 23 March 2018.
173. In his written submissions, Mr Kotas was critical of the report of Mr Zadeh. At the commencement of the hearing, I established that neither party applied for him to be called to give evidence or to be cross examined.
174. At the commencement of the hearing Ms Francis sought to produce several unreported decisions of Upper Tribunal appeals where Mr Zadeh's evidence was

considered. Mr Kotas objected to that course on the basis that they were all unreported decisions.

175. In producing these decisions Ms Francis sought to contend that there are some decisions where Mr Zadeh's evidence was accepted and received. However, she accepted that in some of the cases there had been no objection to the admissibility of his evidence; nor had there been any challenge to his expertise.
176. Mr Kotas did not contend that his report should not be admitted. He submitted however that little weight should be given to his findings for the reasons set out in his written submissions.
177. Mr Kotas submitted that in line with Devaseelan, the starting point in the appeal remains the determination of Judge Hodgkinson in 2014. The appellant's claim in the current appeal is identical to that which he previously submitted. He noted that the appellant sought to depart from those conclusions based on new evidence which has been adduced. He submitted that on a proper analysis, the further evidence does not undermine the findings and conclusions of Judge Hodgkinson.
178. With regard to the psychological report of Dr Thomas, the appellant was diagnosed as suffering from moderate to severe symptoms of major depressive disorder with some significant post traumatic traits. He has not been diagnosed 'with full blown PTSD'. This is also relevant in considering the issue of return under the paragraph 276ADE Immigration Rules, and Article 8.
179. The problem for the appellant is one of causation. Dr Thomas cannot differentiate the underlying cause of his current symptoms as being referable to the claimed events in Afghanistan, as a result of other factors. The appellant himself has stated that he suffered real trauma and hardship in Greece when coming to the UK such that he was unable to talk about it when he first arrived.
180. He also disclosed to Dr Thomas that he had suffered quite serious emotional and physical abuse as a child following a family feud and mistreatment at school. This does not appear to have been factored in by Dr Thomas, in reaching her conclusions on causation.
181. She attributed his psychiatric problems to events in Afghanistan and Greece but was unable to discriminate to what extent the symptoms were caused by either event. It is thus plausible that his current psychological problems are the net result of his experience in Greece in conjunction with his childhood abuse and his anxiety over his unresolved status. The report is accordingly "not necessarily probative" of his asylum claim and problems with the Taliban.
182. Moreover, the contents of the report appear to be based entirely on the appellant's self reporting. There are no GP records or other medical evidence. It turns out that the appellant has never seen a GP about his psychological problems, nightmares, apparent suicide attempts, is not undergoing any form of therapy or treatment and is not on medication. That is despite the recommendation of treatment by Dr Thomas in 2017, almost a year ago.
183. Moreover, there is an apparent tension between the bleak picture painted by the expert and that disclosed by the appellant's statement and the evidence of his supporting witnesses. His statement is largely silent to any of the issues relating to

low mood, sleep disturbances, social withdrawal, appetite disturbances, suicidality and self harm and the like. His girlfriend, [K], only touched on them briefly in her witness statement. In cross examination her answers appeared to be confined to highlighting the fact that he has nightmares and the therapeutic effect of the drama school he is involved in.

184. He submitted that the appellant has “perhaps exaggerated” his symptoms in interview. Nor is there any credible evidence of his ever having attempted suicide as apparently noted by the expert. This was the appellant's self reporting to Dr Thomas. The scars attributable to this have not been assessed by a scarring expert under the Istanbul Protocol as to whether it is consistent with a suicide attempt. Despite being a child at the time he was neither hospitalised nor seen by a GP about it. Nor did he tell his foster parents. He stated in evidence that he was able to bandage up the scars himself. This is not a genuine attempt to take his own life but perhaps further evidence of self harm.
185. Mr Kotas criticised the report of Mr Zadeh. He accepts that Mr Zadeh has a number of qualifications in the field of document verification. He covers a range of topics. His only qualification in terms of document verification however was a one year post graduate diploma in document examination for which he was self taught. This is a highly technical and specialised field of document verification and it is unlikely that he has acquired the necessary skills on a self employed basis.
186. Nor did Mr Zadeh state how many of 657 reports he referred to related to document verification. Although he claimed to have been involved in the authentication of Afghan legal documents, the night letter is not such a document. Despite claiming to have handled hundreds of threat letters he is not saying in what capacity he has handled them or whether this was for the purpose of verification of a matter in dispute in this appeal.
187. He has not cited a specific example in the number of reports he has compiled in which he claims to have specifically addressed the issue of verification of night letters. Little weight should be accorded to his opinion on such matters.
188. Mr Kotas also referred at paragraph 6-7 of his submissions to Mr Zadeh's comments, some of which he submitted are opaque, unhelpful or irrelevant.
189. He submitted that Mr Zadeh made an 'extraordinary claim' relating to the drops of water and was 'convicted' that the wear and tear in fact could have been affected by leaking water in a mud house. However, he examined the letter some four years after it was written and was yet able to say that the droplets could have occurred from drops in a mud house. This could have happened in a host of other ways in which this could have got onto the letter apart from rain occurring at the date it was supposedly dropped off by the Taliban. His claim is accordingly highly speculative.
190. He further submitted that there had been translations of both letters by two different companies. Despite general consistency the terms and broad content have striking differences. In the Habibi version the “emblem” is marked as appearing on the right hand side of the top of the page. In Focus version it appears on the left. There is also a text on the top left hand page in the Habibi version but no such text in the Focus version. There are other features which expose the differences. It is “curious” that the author of the night letter, who was addressing a fellow Afghan, would feel the need

to define in brackets what a Madrassa is. Mr Kotas queried whether this has simply been drafted for the benefit of Western eyes.

191. Further, the Habibi version talks about the family being “wiped out” which is a euphemism for “killed” whereas the Focus version directly talks about killing: “may no-one ever find your dead bodies.” The Habibi version does not contain that.
192. There are moreover no overt security features in this letter. There is no consideration as to why the letters could not simply be counterfeit, a copy or imitation of such night letters.
193. He referred to the “objective material” on night letters contained in the Refworld report. The EASO concluded in an analysis of Afghan night letters by stating that it is not possible to list indispensable features of genuine Taliban night letters or to define what they should look like. It is difficult to distinguish between genuine and forged Taliban letters. The independent analyst stated that documents purporting to be from Afghanistan, including night letters are difficult to authenticate even with a detailed understanding of the particular case history.
194. The professor who presented these problems in the Refworld report appeared in a variety of peer reviewed journals and media sources and he continues to conduct regular field research in central and South Asia. Significant weight should therefore be placed on his opinion.
195. Mr Kotas referred to the Danish Immigration Service report. There is regional variation in the use of night letters. The research group explained that some targets would normally expect to receive multiple warning letters before action is taken. There are cases in which physical assaults and murders are carried out without any advance warning letters.
196. He submitted that this nuanced distinction has not been acknowledged by Mr Zadeh. Accordingly he submitted that it would not appear that the kidnap of the appellant's father after just one letter is consistent with the objective evidence.
197. It is also clearly established from objective evidence, that forged threat letters can be obtained and made to order for a fee. The CPAU in its information provided to the Danish Immigration Service indicates that it is quite easy to fabricate a Taliban night letter and for different reasons people will occasionally pretend to be the Taliban in order to employ threats by night letter or text.
198. He submitted that overall, little weight should be attached to Mr Zadeh's opinion and the conclusion that the night letters were genuine should be rejected.
199. He submitted that the night letters should be assessed in the round together with all other evidence in the case.
200. Mr Kotas moved to the country report of E Winterbotham dated 1 July 2017. He accepted that on its face there is nothing inherently incredible about the appellant's claim that his father worked as an interpreter for the Americans and was kidnapped by the Taliban for such activities. This was acknowledged by Judge Hodgkinson as well. However, plausibility does not necessarily establish the truthfulness of an account. It is simply a relevant factor to be taken into account.

201. However, he submitted that because of the discrepant evidence that the appellant gave to the Tribunal in 2014, Judge Hodgkinson's findings should stand, as the new material is not capable of explaining such discrepancy in his evidence.
202. He referred to the findings of Judge Hodgkinson. This related to discrepant evidence between his SEF statement and his interview [22]. There were also "damning findings" about the timeline in his journey. He claimed to have arrived in the UK in February 2013 after a journey of five months, travelling from Afghanistan. However, he was fingerprinted twice in Greece on 22 July 2012 and 31 December 2012. Judge Hodgkinson noted that according to the appellant's evidence in paragraph 7 of his SES statement, his father received a letter from the Taliban a month prior to his departure from Afghanistan. It would have been in or about mid August 2012 when the appellant would have left Afghanistan in about mid September 2012, bearing in mind his claim he arrived in the UK on 18 February 2013. However, there was a EURODAC fingerprint match confirming that the appellant was fingerprinted on 22 July 2012 and 31 December 2012 which means the appellant was in Greece prior to the month in which he claims his father received a threatening letter in Afghanistan.
203. Even allowing for his age, Judge Hodgkinson did not find that it was credible that the appellant could conceivably have believed he was only in Greece for a month when he was clearly in that country for several months.
204. There were other credibility findings going to the core of his claim referred to by Judge Hodgkinson. The appellant was cross examined about the letter addressed to him which stated that it specifically asked him to give up school and that he was required to join the Taliban. However, the Judge contrasted this with his appeal statement and found that there was only ever an indirect indication that he should join the Taliban. That was found to damage his credibility.
205. The appellant stated in cross examination that the letters were written by the same person as they have the same signature. Judge Hodgkinson noted that at his asylum interview when the appellant was asked what the Taliban letter addressed to his father said, he replied that he did not see the letter but that he heard his father and mother in conversation which is how he became aware that it was written by the Taliban. That discrepancy was found to be unconvincing and to have damaged his credibility, even making appropriate allowances for his age [31].
206. Mr Kotas submitted that the Judge made every allowance for his age and immaturity in making such findings. [21] He in fact disregarded certain of the respondent's adverse contentions. He focused upon those adverse credibility contentions which he found to have sustainable merit, even taking into account the appellant's age.
207. He submitted that there was never any successful challenge to this decision and it cannot possibly be asserted that the Judge did not appreciate the appellant's age or vulnerability.
208. Mr Kotas submitted that in giving evidence before the Upper Tribunal he gave further discrepant evidence when cross examined. He clearly accepted that other than his immediate family, the only other family he had in Afghanistan was his uncle. In cross examination he agreed that both families had a good relationship and accepted this was so, given that his uncle helped him escape.

209. However, the evidence he disclosed to the psychologist was put to him; this revealed that both families had difficulties and were involved in a feud which he found scary and sad and which resulted in physical fights over property and territory disputes. His attempt to explain this discrepancy by asserting that 'family is still family' and that is why his uncle helped him escape, lacks credibility. He has accordingly been discrepant about his family circumstances in Afghanistan.
210. The appellant also tried to explain how he came into possession of the night letters. He asserted that he managed to make telephone contact with his mother in 2015 via a family friend on Facebook. The evidence as to how this came about is fortuitous and also vague when seeking to explain the nature of the relationship with this other family.
211. Further, the appellant stated in evidence that it was his mother to whom he spoke on the phone and that she took the night letters to Jalalabad to be posted to him. However, on his own evidence his mother is uneducated and was unable to read the night letters. How was she able to take down his English address over the telephone to enable her to send them to the UK? There is no suggestion that anyone else was involved in the process.
212. His current appeal statement was drafted in such terms that when he signed it in 2017 he was unable to remember when he last spoke to his mother and he does not know her whereabouts. Mr Kotas submitted that it appears that he is variously in contact with her only when it suits his appeal. He managed to get in contact with her to get the night letters. However, when it came to the appeal hearing, when risk on return and the prospect of family support became a material issue, he is no longer in touch.
213. In any event, in contrast to the way his statement was drafted, he disclosed that he was in fact in touch with his mother and that he speaks to her every couple of months and that she is presently living in Jalalabad. He contended that there had been a change to the circumstances since 2017. However, the appellant adopted his statement at the commencement of the hearing which he accepted was true and accurate to the best of his knowledge and belief. He has had the benefit of professional representatives and has produced an additional undated statement. He would have gone through his statements with them to confirm the current accuracy of all of them. There was no attempt to clarify his statement by way of a change of circumstances. Nor was there any credible explanation as to why hitherto until 2017 when he signed his statement, contact was infrequent and sporadic and his mother's whereabouts unknown when there was all of a sudden a change, that there was regular contact every couple of months and that he knows where she lives.
214. He also submitted that the present circumstances of his family 'was incredible'. He had no idea how his mother was supporting herself and did not know what his siblings were up to. He had not spoken to them. It is not credible that he would not have any appetite as to how his immediate family was faring.
215. Nor has he produced any evidence corroborating the claim that his father worked as a translator for the American organisation he claimed to work for. Although there is no duty on an appellant to corroborate a claim, an adverse inference may be drawn where it could reasonably be expected that such evidence could be obtained.

216. He has been professionally represented; he has been in contact with a family friend on Facebook and is in touch with his mother. Yet he has not been able to get any other evidence supporting the contention that his father worked as a translator.
217. It was asserted that his father worked for an American company in a formal capacity. His father was an educated man, having gone to university. However, there is no evidence confirming that he worked for an American company. There were no written records produced appertaining to such employment.
218. The appellant did not deal with the adverse credibility findings made by Judge Hodgkinson regarding his time in Greece. He gave no credible explanation with regard to the findings. The s.8 finding also stands.
219. Nor did the psychologist accept that any of the discrepancies in his account as found in 2014 were due to any mental health issue. The appellant was professionally represented at that time and could have been expected to disclose any such problems to the representative in preparation before the appeal hearing, or at the appeal hearing itself. His failure to do so precludes him from raising this as a possible reason now.
220. Further, his attempt to attribute blame to his last barrister at the 2014 hearing is not credible. Counsel who represented him in 2014 handed up a skeleton argument and further documents and made additional further submissions on his behalf. His assertion that he was thrown to the wolves is wholly inaccurate and misleading. Nor was that allegation ever put to former Counsel in the first place to enable her to have the change to respond in line with what was said in BT (Nepal) [2014] UKIAT 00311.
221. Mr Kotas submitted that taking the appellant's case at its highest, namely, that even accepting the core of his account is true, he would be able to internally relocate to Kabul to avoid persecutory treatment.
222. The appellant was threatened some five years ago and there is no suggestion that he or his remaining family have received any further threats since.
223. If he were to return to Kabul presently, to a completely different area, it is not reasonably likely that his presence would be detected by the Taliban in that area, nor given his low profile historically, would he have his name "marked". Any suggestion that the Taliban has spies and members who can gather considerable information and thus carry out targeted attacks relate to individuals with a high profile. One example was of a journalist who was targeted. The appellant however would be of no ongoing interest to the Taliban in Kabul.
224. It would not be unduly harsh for him to internally relocate. He referred to the decision in Januzi v SSHD and others [2006] UKHL 5. The appellant would be able to live a relatively normal life judged by the prevailing standards in Afghanistan generally, given his personal circumstances³.
225. Accordingly, Mr Kotas submitted that his asylum claim should be dismissed.
226. With regard to the appellant's additional and separate claim that upon return he would be at risk as a member of a particular social group, namely as someone who is

³ His written submissions were made before the decision in AS, supra, was available, and is not referred to in his written submissions. He made separate oral submissions regarding the decision as set out below.

“Westernised,” this was explored in Ms Winterbotham's report. The respondent does not accept that Afghans perceived as Westernised constitute a particular social group. That concept is “incredibly nebulous”. The appellant already spoke English before coming to the UK and this cannot simply be attributable to time spent in a Western country, which would invariably cover ordinary visitors, business persons and the like. Issues such as dress, appearance, beliefs, religion and the like are fluid and cross-cultural. Nor is being westernised an immutable characteristic.

227. He submitted from the background evidence, the picture is not as clear cut as the appellant seeks to portray. The DFAT noted in its 2015 report that it was aware of occasional reports of returnees from Western countries alleging they have been kidnapped or otherwise targeted on the basis of having spent time in a Western country. Such returnees from Western countries are not specifically targeted on the basis of their being failed asylum seekers.
228. The appellant will be returning to Afghanistan as a lone male with no adverse history, or, even assuming his account is true, with an historically low profile purely on account of his relationship with his father.
229. With regard to Article 15(C), Mr Kotas submitted that the decision in AK (Article 15(c)) Afghanistan CG [2012] UKUT 00163 should still be followed⁴.
230. He noted that there is no separate Article 3 medical or suicide risk that is being pursued.
231. With regard to paragraph 276ADE and Article 8, Mr Kotas submitted that the appellant cannot demonstrate that there will be very significant obstacles to his re-integration into Afghanistan. He referred to the decision of the court of Appeal in SSHD v Kamara [2016] EWCA Civ 813. The idea of integration calls for a broadly evaluative judgment to be made as to whether the individual would be enough of an insider in terms of understanding how life in the society in that other country is carried on and the capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.
232. That is the idea of “integration”, even though Kamara was a deport case. The wording in paragraph 276 is the same.
233. The appellant has spent his entire childhood and early adolescent years in Afghanistan. He is fluent in Pashto and has been away from Afghanistan for about five years.
234. Although mental health issues and a lack of mental health facilities were mentioned by Mrs Winterbotham in her report, the appellant's lack of engagement with medical professionals in the UK and the fact that he is not on any medication has little purchase when considering paragraph 276ADE.
235. With regard to Article 8 outside the Rules, it is only his private life which is considered. This encompasses his relationship with [K] as well as the work with the [PT], his friends, attachment to the community and the like.

⁴

It was stated by the Tribunal in AS, that the decision in AK remains unaffected by its decision.

236. Mr Kotas accepted the evidence regarding the appellant's work and contribution to the [PT].
237. He referred to the assertion in line with UE (Nigeria) and others v SSHD [2010] EWCA Civ 975 that the public interest in his removal is reduced because of his value to the community in this country. However, those observations were made by the Court of Appeal in 2010 before the introduction of the statutory public interest considerations brought in by the Immigration Act 2014 which bind the Tribunal. In particular, little weight is to be given to his private life in view of his precarious immigration status – s.117B(5) of the 2014 Act. This is not diluted by the fact that he is a valued member of the drama school.
238. He submitted that the Tribunal must however consider cumulatively the loss of his private life here in conjunction with his mental health condition as properly scrutinised, including the fact that re-establishing himself either in his home area or Kabul will involve difficulties, upset and upheaval.
239. He submitted however that the appellant arrived illegally. His initial asylum claim was dismissed. He was only given limited leave whilst he remained a child. He never had any legitimate expectation that he would be granted a further period thereafter. He has now been on s.3C leave for some time in the UK and has only been here for about five years in total. He has family in Afghanistan whom he is in touch and to whom he can turn.
240. Finally Mr Kotas made submission in the light of the recently published country guidance decision of the Upper Tribunal, in AS (Safety of Kabul) Afghanistan CG [2018] UKUT 00118 (IAC).
241. He contended that this decision deals with the majority of the appellant's claims. He referred to the country report of Ms Winterbotham at paragraph 27-30 of his submissions. The Tribunal had been highly critical of her report.
242. At [62] of AS the Tribunal found that her evidence was of significantly less assistance and carry far less weight than the other experts due to her approach in writing her report and giving evidence generally. Although it was accepted that this was her first experience of an appeal in the Upper Tribunal as an expert witness the Tribunal found her approach to be of concern.
243. She approached the task by using material that she had already had available to her and had amassed over the years in her work, rather than undertaking any specific further investigation into particular points or asking for updates or additional sources to the material that she did rely upon. The material that she had available to her was collected for a range of different purposes over a period of time which preceded her instructions and was not necessarily irrelevant to the questions asked of her, was not specifically collected for that purpose nor was it necessarily up to date or the most relevant material on which reliance could or should have been placed. In many instances material relied upon stated that as far as 2008 and 2009 and a significant proportion of sources were from the period before AK was heard in the Upper Tribunal.
244. It was also clear from her oral evidence that there are inaccuracies in her report and that she had significant difficulties identifying whether her evidence was her own

opinion or whether sourced from other evidence. Some were wrongly identified in the footnotes.

245. This approach to giving expert evidence fell below the standards set out in the Senior President's Practice Directive 2010. They accordingly approached her evidence with caution. They did acknowledge that she had extensive experience of living and working in Afghanistan as well as her detailed knowledge of specific areas of work she had been involved in and they took her evidence into account for those reasons [66].
246. Mr Kotas submitted that her report dealt with the plausibility of the appellant's claim as well as his risk on return and encompasses issues of "Westernisation" and issues of integration, medical care and the general security situation.
247. Mr Kotas accepted that there was nothing inherently incredible about the appellant's claim that his father worked as an interpreter for the Americans. It was accepted by First-tier Tribunal Judge Hodgkinson. That overall consistency does not of itself necessarily establish the truthfulness of an account. It is a relevant factor to be taken into account which Judge Hodgkinson has done.
248. He submitted that Ms Winterbotham's report can really take his claim no further than to confirm the general plausibility of his account.
249. The appellant has given discrepant evidence to the Tribunal in 2014. Accordingly the findings of Judge Hodgkinson ought to stand as the new material is not capable of explaining such discrepancies in his evidence.
250. He submitted that there are four aspects in the claim which are dealt with in AS. These are Westernisation; threat from the Taliban; Article 15(c) and the reasonableness of internal relocation.
251. The risk due to Westernisation is dealt with at 90-94. At [187] the Tribunal held that they did not find a person on return to Kabul or more widely to Afghanistan to be at risk on the basis of "Westernisation". There is simply a lack of any cogent or consistent evidence of incidents of such harm on which it could be considered that there was a real risk to a person who has spent time in the west being targeted for that reason, either because of appearance, perceived or actual attitude of such a person. In sum, they held that most there is some evidence of a possible adverse social impact or suspicion affecting social and family interactions; but the evince fell short of establishing an objective fear of persecution on this basis for the purposes of the Refugee Convention.
252. With regard to threats from the Taliban, Mr Kotas relied on the evidence of risk in AS at [67-83]. The Tribunal assessed the risk of the Taliban with regard to internal relocation in Kabul. The Tribunal stated that it is assumed that high profile individuals or those that pose a serious danger to the Taliban such as spies, are automatically on the blacklist, as are wanted people. But for those that are lower level they would only be added if they had received two warnings from the Taliban which would be sent to or left at the address of the individual. The person could not be targeted simply because they were a relative of a person who is a target or a threat to the Taliban.
253. At [81] the Tribunal noted that Dr Guistozzi was of the view that unless references were sought specifically from the appellant's home village (which would be required

for stable employment or formally rented accommodation and not accommodation in a dormitory or casual labour), no-one would know the appellant's whereabouts and there would be very little chance that the Taliban would even know he was in Afghanistan. Taliban informers in Kabul would not necessarily know that the appellant was wanted (even if he was on the blacklist).

254. At [82] the Tribunal noted that the EASO report "Afghanistan – Individuals targeted by armed actors in the conflict" relying on an interview with a senior correspondent specialising in coverage of Afghanistan was of the view that the Taliban would probably not target low level individuals or their family members after relocating to the cities.
255. He referred to the Tribunal's general findings on risk as set out at [174], [179], [181], [183], [184], [187] and [201] to the effect that there is no real risk that a low level individual could be successfully targeted by the Taliban in Kabul.
256. He submitted that in summary, AS found with regard to risk on return to Kabul from the Taliban, that a person who is of lower level interest for the Taliban (i.e. not a senior government or security services official, or spy) is not at real risk of persecution from the Taliban in Kabul.
257. With regard to internal relocation to Kabul it will not in general be unreasonable or unduly harsh for a single adult man in good health to relocate to Kabul even if he does not have any specific connections or support networks in Kabul. However, the particular circumstances of an individual applicant must be taken into account in the context of conditions in the place of relocation, including a person's age, nature and quality of support network/connections with Kabul or Afghanistan, their physical and mental health and their language, education and vocational skills when determining whether a person falls within the general position referred to.
258. A person with a support network or specific connections in Kabul is likely to be in a more advantageous position on return which may count for a particular vulnerability of an individual on return.
259. Although Kabul suffered the highest number of civilian casualties (in the latest UNAMA figures from 2017) and the number of security incidents is increasing, the proportion of the population directly affected by the security situation is tiny. The current security situation in Kabul is not at such a level as to render internal relocation unreasonable or unduly harsh.
260. The Tribunal in AS specifically noted that the country guidance in AK (Article 15(c)) Afghanistan CG [2012] UKUT 163 in relation to Article 15(c) of the Qualification Directive remained unaffected by this decision. Further the country guidance in AA (Unattended Children) Afghanistan CG [2012] UKUT 16 also remains unaffected.
261. Mr Kotas accordingly submitted that the appellant would not be at risk.
262. At [192] the Tribunal in AS noted that as the panel in AK mentioned that there is a fluid situation which should be monitored and kept under review, but with regard to civilian casualties in Kabul as at the present time, they found that the security situation does not exclude it as an option for internal relocation for a single male, as in that appeal.

263. At [196] the Tribunal noted that despite the number of and impact of security incidents in and around Kabul, cities are not at such a high level as to make internal relocation to Kabul unsafe. Evidence showed that the level of indiscriminate violence falls very far short of the threshold and directly affects a tiny proportion of the population of Kabul City (0.01%).
264. Kabul is not the worst affected area in respect of security incidents which affected the provinces. The Tribunal did not accept at [237] the guidance on whether the Article 15(c) threshold is met in Kabul contained in AK is no longer binding. The mere passage of time does not render country guidance no longer applicable.
265. The evidence before the Tribunal was consistent with the findings and country guidance in AK that the level of indiscriminate violence in Kabul is not at such a high level as meaning that, within the meaning of Article 15(c) of the Qualification Directive, a person faces a real risk.
266. Accordingly, the country guidance decisions in AK with regard to Article 15(c) and the unreasonableness of internal relocation to Kabul and other potential places of internal relocation is still good law.
267. Mr Kotas referred to the appellant's principal as well the separate claims, that upon return he would be at risk as a member of a particular social group. It is not accepted that he would be perceived as Westernised and that this would constitute a particular social group.
268. Going to Kabul is not unreasonable or unduly harsh. The appellant will be 20 in August. The particular circumstances of an individual applicant must be taken into account.
269. With regard to healthcare, the Tribunal noted that in terms of mental healthcare, the EASO report recorded very high levels of mental health problems in Afghanistan (particularly depression, anxiety and PTSD). This created significant needs and there was a lack of trained professionals such as psychiatrists, social workers, psychologists and an inadequate infrastructure. In Kabul there is better access to healthcare than in the provinces. There is still significant room for improvement. There remains a shortage of equipment and demand which outstrips supply.
270. Mr Kotas referred to the Tribunal's assessment of the employment and socio-economic conditions in Afghanistan from [114] et seq. He submitted that preferred occupations in Kabul are taxi drivers [151]; however a person does not need any references or network to obtain unskilled labouring work [153].
271. He referred to the findings in AS regarding the different procedures and assistance packages in place, depending on whether a person is voluntarily returning or being forcibly returned. This depends where a person is returned from [155-163]. IOM would be able to give clothing to individuals if necessary on return and assist them with formalities and counselling. This includes psychological counselling and also advice as to housing and employment. Outside of IOM there is evidence of other smaller organisations offering assistance including the International Psycho Social Organisation, as referred to in paragraph [161] of AS.

272. Mr Kotas referred to [162-163] to a leaflet from ERIN which detailed assistance provided to returnees to Afghanistan. The reintegration support referred to in the leaflet was still in the planning phase with possible service providers and not yet provided to returnees.
273. Mr Kotas submitted that in time the appellant could avail himself of such a package.
274. He referred to [202] of AS with regard to the findings of the UNHCR as to the reasonableness of a place of internal relocation. He relied in particular on paragraph [211-213]. Kabul is a place where a support network is not essential and internal relocation is generally reasonable without one, for a single male in good health.
275. He noted that the Tribunal did not find that a single male returning to Kabul would be unable to find some sort of accommodation which is comparable to that available for the majority of the population in Kabul, even without support from a network in the city [219].
276. He also referred to and relied on paragraphs [227-235]. At [234] he noted that the Tribunal was not provided with any specific evidence of the likely impact of poor physical or mental health on the safety or reasonableness of internal relocation to Kabul, but considered it reasonable to infer that this could be relevant in the issue of the specific situation and the individual, which would need to be carefully considered.
277. Mr Kotas pointed out that the appellant in AS was 31 years old whereas this appellant is 19. However, he is able bodied. Notwithstanding his asserted mental health issues, he has not accessed mental health assistance or treatment in the UK. He is not on any medication. He is not seeing anybody in respect of any mental health treatment. He has never seen his GP about his problems.
278. There are mental health facilities and treatment available in Kabul. As the appellant is not receiving any treatment in the UK, this carries little weight with regard to reasonableness of return. He has thrived in the UK and has made connections and has still attended college. Nothing prevented that.
279. He referred to his submissions regarding the appellant's current appeal statement as compared to that which he signed in 2017, where he claimed that he was unable to remember when he last spoke to his mother and does not know her whereabouts. He has since disclosed that he has been in touch with his mother and that he speaks to her every couple of months, and that she is living in Jalalabad. This constituted an attempt to "minimise" his circumstances in Afghanistan.
280. He also referred to the decision in EU (Afghanistan) and Others v SSHD [2013] EWCA Civ 32 where the Court of Appeal held that although the appellant was still a minor, he had a family, a mother, brother, sister, cousin, paternal uncle and his son to whom he could return. He was not at real risk of mistreatment. This relates to the appeal of AK whose claims, including Article 8, were rejected. The Court of Appeal dismissed the appeal.
281. However, family connections is not a prerequisite, but in this case he does have a family. Accordingly, he can be removed. He referred to the summary in AS of the approach to reasonableness set out in Januzi v SSHD [2006] 2 AC 426 at [21].
282. The Tribunal in AS noted that the test was further considered by the House of Lords in AH (Sudan) v SSHD [2008] 1 AC 678. The Tribunal found at [23] that the

assessment must therefore consider the particular circumstances of the individual applicant in the context of conditions and the place of relocation. The test of reasonableness is one of great generality, excluding only a comparison with conditions in the host country in which protection has been sought. He referred to the opinion of Lord Brown at [46] regarding the test of reasonableness.

283. Mr Kotas submitted that the appellant would do better than his compatriots.
284. With regard to Article 8, the appellant's submissions relating to mental health issues should have little purchase when considering paragraph 276ADE.
285. Under Article 8, it is only his private life which is to be assessed, which encompasses his relationship with [K], his work with the [PT], his friends and his attachment to the community that applies.
286. With regard to the contention in line with UE (Nigeria) v SSHD [2010] EWCA Civ 975 he referred to the assertion that the public interest in his removal is reduced because of his value to the community in the UK. However, the observations of the Court of Appeal were made in 2010, before the introduction of the statutory public interest considerations enacted by the Immigration Act 2014.
287. There is thus a mandatory requirement under s.117B(5) to give the appellant's private life little weight in view of his precarious immigration status, which is not diluted by the fact that he is a valued member of his drama school.
288. Mr Kotas very fairly acknowledged that his loss of private life must be considered cumulatively in conjunction with his mental health conditions including the fact that re-establishing himself either in his home area or Kabul would involve difficulty, upset and upheaval.
289. His status here has been highly precarious. There was no legitimate expectation that he would be granted a further period of leave after his limited leave whilst he remained a child. He has family in Afghanistan with whom he is in touch and can turn to.
290. On behalf of the appellant, Ms Francis relied on her separate sets of written submissions. She began by referring to the Practice Directions and Guidance note relating to vulnerable witnesses.
291. She submitted that there are good reasons for departing from the conclusions of Judge Hodgkinson. This includes the expert report of Dr Thomas dated 1 July 2017 which was not before him. The appellant's account of his experiences in Greece is also psychologically plausible and consistent despite its late disclosure, demonstrating that there is a presence of post-traumatic avoidance strategy.
292. His current disorder renders him with an impaired memory, concentration and orientation to time and place. This will cause impairment to his ability to provide a coherent narrative of past life events, especially those which are traumatic.
293. She also relied on the report of Dr Zadeh. There is good reason why the appellant did not adduce this evidence before the previous Tribunal. He was not in possession of the original documents.
294. Further, the report of Ms Winterbotham was also not before Judge Hodgkinson. She found the appellant's evidence highly plausible with regard to threats made against him and his father.

295. His participation in “[DHO]” had not taken place at the time of the original determination. In any event that was an upgrade appeal and the Tribunal did not consider any Article 8 claims at all.
296. Furthermore, there has been the passage of almost four years since that determination. His life has developed significantly and so has the risk to Westernised Afghans.
297. She submitted that the respondent's assertions do not give proper cause to reject his account. This includes the description of his father's uniform and any inconsistency in relation to his time in Greece. The account is consistent with reports of Ms Winterbotham and Dr Thomas. The latter found that his current psychiatric symptoms are of major depressive disorder and relate entirely to his traumatic past experiences in Afghanistan and Greece.
298. With regard to risk on return, he has three distinct claims.
299. First, he claims to be a family member of an interpreter to the US forces. This was confirmed by Ms Winterbotham who records incidents of attacks in Kandahar Province, the appellant's home area. She found it highly plausible that his father would have been targeted by way of threatening letters. It is also accepted in the respondent's country information and guidance.
300. Secondly, he has a well founded fear of persecution on account of his own imputed political opinion, namely a person in opposition or resistance to the Taliban. His actions will be viewed as anti-Taliban, as he fled rather than joined them and in particular that he fled to the West. He would be at risk of reprisals. This is likely to be increased in the time he has spent in the West and his perceived Westernisation. If returned to his rural home area he would be tracked or come to the attention of the local Taliban. It is indicative of the steps taken by his mother.
301. The state will not be able to provide adequate protection from the Taliban in rural Nangahar.
302. Ms Francis then referred to the respondent's CIG regarding Afghans perceived as “Westernised” in version 1, dated January 2018. There it is asserted that Afghans perceived as Westernised do not form a particular social group. Ms Francis contended that this is wrong. Afghans do have a distinct identity and are perceived as being different by the surrounding society. She referred to various decisions in this respect at page 31 of her skeleton.
303. In particular, he is fluent in English; he has Western mannerisms and ideology; he has a white British girlfriend and a high profile acting role in “[DHO]”. Ms Winterbotham notes that this is especially marked in the light of his white British girlfriend and high profile acting work in the UK.
304. Accordingly there is no sufficiency of protection available to the appellant anywhere in Afghanistan. Ms Winterbotham's analysis is corroborated by objective evidence in respect of sufficiency of protection at pages 157-162.
305. With regard to internal relocation, the risk and unreasonableness of relocation is to be assessed on the basis that the appellant is being returned at the time of the decision on appeal. The respondent needs to establish that there is a part of

Afghanistan where there is no equivalent risk to the appellant and that he can reasonably be expected to relocate to this area.

306. He cannot safely relocate from the risk of persecution to Kabul. That would be unduly harsh. He is only 19 years old. He has significant medical vulnerabilities as set out in the report of Dr Thomas. This includes an escalated risk of suicide and/or self harm. There is also a risk of developing PTSD. He displays a number of post traumatic traits indicating a significant vulnerability to developing secondary mental illness in the event of further traumatic life experiences which would, in her view, be incurred by enforced return to Afghanistan. There would also be the absence of social support and the recurrent fear of death whilst experiencing major depressive disorder.
307. She noted that it is psychiatrically significant the appellant appears to strongly believe that his assumptions and fears about his future in Afghanistan are correct. He will inevitably be re-traumatised. He will be unable to access treatment as in any event he is likely to be far too psychiatrically unwell by this time to accept them.
308. He will be unable to re-integrate or work in Afghanistan. He will be vulnerable to abuse and exploitation and will be unable to seek protection from the authorities in response to any threats on account of his psychiatric ill health.
309. Dr Thomas also concluded that he requires stability and certainty where he no longer fears ill treatment, harm or return to Afghanistan before any treatment regime can be effective. He will need a minimum of 12 months and ideally 24 months or more for his psychological therapy. Absent such therapy, his psychiatric recovery will be extremely unlikely now. A significant psychiatric deterioration simply resulting in psychiatric breakdown will be a more likely outcome, whether he is actually harmed in Afghanistan in the manner he fears.
310. Dr Winterbotham confirms that the significant treatment regime advised would not be available to him. It is misleading to suggest that appropriate medical provision is available to him if he is forcibly returned.
311. There would be a lack of support network which presents a barrier to internal relocation as noted by Ms Winterbotham. Both she and the UNHCR state that support networks are essential to re-integration. He has no networks or family in Kabul. He would be limited to irregular and infrequent contact with his mother in Nangahar. She referred to the report "After Return: Documenting the Experiences of Young People Forcibly Removed to Afghanistan." at pages 614-671. The executive summary is set out at pages 617-618.
312. She submitted that the conditions in Kabul would in the circumstances be unduly harsh for the appellant. She referred to the EASO country of origin information report dated 2016 showing the levels of violence and attacks in Kabul. The EASO COIR report refers to specific issues of relocating to an area under Taliban control, and in relation to Kabul, noted that 1,500 spies and informers are in the city. As per Paragraph 9 of the UNCHR guidelines, the appellant has no traditional support network of family members. He is not a single able bodied man but has identified vulnerabilities.
313. Accordingly his removal would be in breach of the Refugee Convention as well as pursuant to Articles 2 and 3 of the Human Rights Convention.

314. In the alternative, she submitted that by virtue of Article 15(c) and Articles 2 and 3 of the Convention, the deteriorating security situation in Afghanistan means that there are substantial grounds for believing that if he were returned to his home area he would face a real risk of suffering serious harm. She referred to AK (Article 15(c)), supra, which was decided over five years ago. International forces have now withdrawn substantially from Afghanistan and there have been major changes in the security situation. This further evidence was not considered in AK and it is out of date.
315. She submitted that the appellant does qualify as reflected in the latest country evidence. She referred to Ms Winterbotham's report at page 189 and 192-193. For the same reasons, she submitted that removal would breach Article 8.
316. She submitted in the alternative that his removal from life in the UK to an unaccompanied return to Kabul, would breach Article 8. There would be very significant obstacles to his integration into Afghanistan, pursuant to paragraph 276ADE(vi).
317. Further, under Article 8 he enjoys significant private life in the UK and has lived here since February 2013. He has established an extensive support network which includes his girlfriend, foster family and his theatre group. He has also attended school. She submitted that he has been widely considered to be a person of considerable value to his community.
318. There would be an interference with his private life. In particular, his removal would be disproportionate. The weight to be attached to maintaining firm immigration control is diminished by his value to the community. He has lived here for a significant period of time. He will be subject to detention and ill treatment on return. His physical and moral integrity will be impacted.
319. I have also had regard to Ms Francis's further written submissions, consisting of 11 pages, in response to those of Mr Kotas. She has also set out her submissions relating to AS in her skeleton dated 2 May 2018.
320. The appellant's claim is not identical to that previously submitted. In the current appeal he raises a separate Convention ground of Westernisation as well as substantive Article 8 grounds.
321. She referred to the psychological report of Dr Thomas, referring to some significant post traumatic traits is of clinical significance and considerable gravity. Further, his presentation was caused by a traumatic experience in Afghanistan and Greece. She had considered the experiences of the family feud and mistreatment. Although not caused by such experiences, the conclusion is sound. Her expertise has not been discredited.
322. With regard to the contention that she simply accepted the appellant's account, this is misplaced. She referred to AM, R (on the application of) v SSHD [2012] EWCA Civ 521, where the Court of Appeal held that medical evidence could not be rejected on the basis that a medical report has uncritically accepted an account. Further, she noted that Dr Thomas found his presentation to be clinically plausible and found no evidence of fabrication.

323. Both the appellant and [K] referred to the psycho-social therapeutic support that he receives through his dynamic theatre work which is all he can manage at the current time.
324. She was appraised of his effective circumstances. She formed her own clinical opinion of him. This has not been challenged. She found no fabrication or embellishment in respect of his clinical presentation.
325. The contention that he should have been intrusively assessed for scarring following a suicide attempt is “confused and highly inappropriate.” It has been accepted that he should be treated as a vulnerable witness. The hearing was conducted in the absence of the public. Such an assessment falls out of Dr Thomas's expertise. The absence of a separate report does not invalidate the significance of his suicide attempt. She submitted that his evidence was that he sought to hurt himself and that he believed and wished to end his life.
326. With regard to the report of Dr Zadeh, if the respondent sought to take issue with his CV, he should have been invited to provide an explanation. He had sufficient expertise to conduct such an assessment.
327. With regard to the criticism of individual “and minute points” she submitted that Dr Zadeh's report should be assessed holistically. Mr Kotas selectively quoted his report in relation to the leaking roof and damaged documents. The respondent had been in possession of the documents relied upon previously and was on notice to the fact of two translations and three separate hearings over almost two years. No issue had ever been taken about the translations until the hearing on 14 March at the de novo hearing. Nor had the respondent any expertise entitling the making of comments in respect of the documents.
328. Further, the reliance on a Refword report at the hearing on 14 March 2018 was selective. The significant sections were omitted which highly corroborate the appellant's evidence. In particular, the prevalence of night letters in Southern and Eastern Afghanistan including the appellant's home province; that night letters are often sent to low level targets; the lack of reporting of night letters in rural areas where the security situation is vulnerable and the form and service of night letters, all of which accords with the appellant's account.
329. At pages 5-7 there is a full summary of the Refworld report. This includes their purpose and prevalence; the targets and recipients; the delivery of night letters and the reporting to police and actions taken by the police.
330. She submitted that the country report of Ms Winterbotham is a key piece of largely unchallenged evidence. There is little about her report in the respondent's submissions. Substantial weight should be given to that report which must be considered in full.
331. With regard to the assertions concerning the appellant's credibility, the Tribunal must direct itself appropriately in accordance with the case law and guidance on claims made by a child and evidence given by a person who is vulnerable by virtue of age and mental health.
332. It is for the Tribunal itself to consider the law and guidance which is applicable. In particular, unchallenged evidence of Dr Thomas in respect of the appellant's capacity

to recall traumatic events must be properly considered. The current psychiatric disorder renders him with an impaired memory, poor concentration and orientation to time and space. It can be seen that such a complex diagnostic picture will cause impairment to his ability to provide a coherent narrative of past, especially traumatic, life events. This evidence was not considered by Judge Hodgkinson.

333. With regard to the attacks on his credibility, the respondent seeks to rely on minor points and matters which are not relevant to his claim. These are set out at pages 9 and 10 of the second written submissions.
334. She submitted that the respondent has not dealt with the submissions in respect of internal relocation as set out in the initial argument. She has not considered his sur place claim and personal threats made against him. Those threats were not simply as a result of his connection to his father. The respondent's submissions are generic.
335. She submitted that the respondent's submissions regarding Article 15(c) are generic and failed to engage with the evidential positions set out in the argument.
336. Nor has the respondent had regard to the submissions relating to paragraph 276ADE(vi) or Article 8.
337. With regard to the recent decision in AS v SSHD [2018] UKUT 00118, it can be properly distinguished on the facts in respect of each of the limbs of the country guidance.
338. The Tribunal must assess the risk to the appellant in his home area, in Nangarhar Province. He maintains that he is at risk for three Convention reasons, namely that he is a family member of an interpreter for the US forces; that he is a person in opposition or resistance to the Taliban and as a result of his Westernisation.
339. The decision and reasons in AS pertain to risk on return in Kabul only: Nangarhar is one of the most dangerous provinces, bordering Kabul province. The Taliban in Nangarhar are likely to have close links with the Taliban in Kabul. This related to his risk in his home area and the prospects of his relocation to Kabul.
340. She submitted that the Tribunal in AS found that a person who is of lower level interest for the Taliban is not at real risk of persecution in Kabul. The Tribunal did not consider claims brought by interpreters and/or their family members. Regard must be had to Ms Winterbotham's evidence as well as "objective evidence" particularly in relation to seeking employment. He is required to provide his father's name and have an identity card. This puts him at heightened risk.
341. The high level of insecurity and fatal attacks in Kabul indicates that the appellant will be required to evidence his identity before gaining employment. The issue of Westernisation referred to in AS was restricted to the risk in Kabul and to internal relocation only. There was no assessment regarding Westernisation claims in the provinces of Afghanistan. It was accepted by the respondent in AS that sufficiency of protection is not available to appellant from the Taliban in Afghanistan [13].
342. Further, the relevance of the Tribunal's findings on risk on return to Kabul is restricted to two discrete questions in the assessment of the option of internal relocation for the appellant. The first is whether the person has a well founded fear of persecution in the proposed place of relocation. If so and there is no internal relocation option, he is a refugee. He might be subject to inhuman and degrading treatment in the proposed

place of relocation. If not, then secondly, there must be an assessment of whether in all the circumstances it would be reasonable and not unduly harsh, to expect a person to relocate to that place.

343. She submitted that he is at risk on return to Kabul.
344. She referred to paragraph (ii) in the headnote, set out in AS. It is provided, inter alia, that it will not in general be unreasonable or unduly harsh for a single adult male in good health to relocate to Kabul even if he does not have any specific connections or a support network in Kabul.
345. She submitted that the appellant has been diagnosed by a psychologist as being psychiatrically unwell. Accordingly, he would return to Afghanistan (and Kabul) as a 19 year old single adult male who is vulnerable and suffers from mental ill health. This contrasts with the position of AS who was a 31 year old single adult male with no health conditions. Further he has no family network in Kabul. He believes his mother is in Jalalabad.
346. It cannot be argued that the appellant can gain assistance from his mother, a female head of household, when in Kabul. Nor can it be argued that she is required to relocate internally in order to assist him if he were required to relocate to Kabul.
347. She referred to headnote (iii). The guidance in AA (Unattended Children) Afghanistan, supra, remains unaffected by AS. There is no bright line rule at the age of 18 when a person in the UK is considered to be an adult.
348. He has no support network in Kabul. He has had minimal contact with his mother. He has regular, 2-3 monthly phone calls. These connections are poor in quality and fall outside Kabul. At [211] of AS it is noted that in such a situation he will be deprived of direct practical support in Kabul City. His mother would not be able to assist him with any connections in Kabul that could lead to support of him.
349. Further, the appellant is a fluent English speaker. This identifies him as Westernised and is a factor of his vulnerability. This is particularly so with regard to his appearance, attitudes and his long term relationship with a white British girlfriend.
350. He has established himself as a stage actor and public speaker in the UK. These activities do not provide any meaningful basis to enable him to access employment in Kabul, but the opposite. Further, he has only been able to establish and maintain his work in the context of intensive support that he has been provided with.
351. She referred to Dr Thomas's opinion regarding the deleterious impact on him if the support were to be removed. It cannot be assumed that whilst stable in the UK having regard to the networks and therapy which has kept him from self harm, that this would necessarily provide a guide to his immediate future.
352. The WHO in assessing the Kabul mental health hospital in October 2015 referred to dire conditions for mental health patients in Kabul. This evidence was not before the Tribunal in AS where there were no factors of vulnerability involved.
353. That report was part of a Masters dissertation in Mental Health Policy and Services. The assessment was conducted at Kabul Mental Health Hospital and disclosed that human rights violations and discrimination against mental health service users are

accepted as a common practice. She referred to an inadequate environment and standard of living for mentally disabled people.

354. She submitted that it is “objectively likely” that the appellant would be provided with counterfeit medication when accessing mental health services, as are available. In the light of Dr Thomas's report, deterioration in his mental health would be by this stage too severe for him to access any form of treatment.
355. The level of violence in Kabul is relevant to the assessment of reasonableness of relocation in the light of profound structural weaknesses and daily security incidents. She stated that the conclusion in AS at headnote (v) is not accepted. On 30 April 2018, 25 people were killed in twin bombings in Kabul, including 10 journalists. Such violence is a daily occurrence in Kabul.
356. In the alternative she submitted that it is unduly harsh to require the appellant to internally relocate to Kabul, having regard to his individual circumstances – AS headnote, (ii-iv).

Assessment

357. The parties agreed that the starting point in the appeal is the determination of First-tier Tribunal Judge Hodgkinson. The appellant's current claim is the same as that which he originally put forward. It is contended that in the light of the evidence subsequently produced, departure from the earlier decision is justified.
358. The appellant contends that he has a well founded fear of persecution if returned to his home district, on account of his imputed political opinion. He would be viewed as anti-Taliban, having fled to the West rather than joining them. Such risk is likely to be increased following the period spent by him in the West and his perceived “Westernisation.” It is contended that his return to his rural home area would at least come to the attention of the local Taliban. That is enforced by the steps taken by his mother and uncle who considered him to be at serious risk. Finally, it is submitted that the Afghan state is unable to provide adequate protection in his home area.
359. I have had regard to the expert reports which I have set out in some detail.
360. I have referred to the attempt by Ms Francis to rely on unreported decisions of the Upper Tribunal with regard to the report of Mr Zadeh.
361. In some of those decisions his evidence was accepted, particularly when there has been neither any objection to the admissibility of his report nor any challenge to his expertise. In other decisions, the Tribunal was critical of his findings.
362. I have set out Mr Zadeh's qualifications. He has also quite frankly acknowledged that in some cases where he has given evidence, his opinion has been rejected – page 4 of his report.
363. Mr Zadeh's expertise covers a range of topics. However, his only qualification relating specifically to document verification, was a one year post graduate diploma in document examination which was self taught.
364. As already noted, although he claimed to have prepared about 657 expert reports relating to document verification, particularly in respect of Afghan legal documents, it is not disputed that the night letter which he examined does not fall within that category.

365. He also claims to have “handled” hundreds of threat letters of this type coming from the Eastern province of Nangahar. However, as noted by Mr Kotas, he did not indicate in what capacity he handled them, nor whether his “handling” was for the purpose of verification. Moreover, his only qualification relating to document verification was obtained in 2015. Nor has he stated in terms, the number of reports he has produced regarding the verification of night letters.
366. I accept Ms Francis's submission that there was a good reason why the appellant did not adduce this evidence at the time of his previous appeal hearing. At that stage he was not in possession of the original documents. When he obtained them, they were sent to the respondent. The original documents were only returned by the Home Office after the respondent was ordered by the First-tier Tribunal to return them.
367. Ms Francis submitted that there has been criticism of Mr Zadeh's report based on “minute points” and that it should be assessed 'holistically'. Moreover, no issue had been taken about the translations in the report until the hearing before the Upper Tribunal.
368. I consider the reports subsequently produced as part of the evidence as a whole.
369. Quite apart from Mr Kotas's submissions relating to Mr Zadeh's limited expertise, I find that he has made some telling submissions regarding the content of his analysis of the two night letters in question.
370. Mr Zadeh has made various “observations” following his examination of the two letters. As part of such observations, he asserted that the information contained in the two letters is consistent with the Taliban's threats. The Taliban members formulate their threats in a unique way and these two letters show that uniqueness very well – paragraph 7, page 213.
371. Apart from that bald assertion however, he has not sought to substantiate his contention that Taliban members formulate their threats in a unique way, let alone whether, and if so, why the contents in the letters are unique.
372. Mr Zadeh also asserted as part of the analysis he undertook regarding the authenticity of the threat letters, that the handwriting of both of them followed the Afghan writing style. He stated that 'The Taliban heavily rely on handwriting'. However, that assertion is again unexplained. There is no attempt to substantiate precisely what comprises the so called Afghan writing style. It is accordingly unclear as to how in itself, or even as part of the cumulative assessment of the documents, the handwriting is capable of proving the authenticity of the letters.
373. Mr Zadeh also stated that in looking for handwriting and forgery, the envelope used for posting the two threat letters to the UK contains handwriting in English. The pen used on the envelope is a dark blue ballpoint type. The pen used for writing the threat letters is a light blue ballpoint type. He concluded that he cannot see any similar patterns between the envelope and the threat letters' handwriting. This point is said to add to the credibility of the threat letters.
374. However, I accept the submission by Mr Kotas that this point adds nothing to the authenticity of the letters. Had the same person who had written the threat letters also posted them, the authenticity of the letters would in fact be undermined. As noted by

Mr Kotas, Mr Zadeh had not been informed that the appellant's mother sent the letters in the post.

375. As part of his assessment, Mr Zadeh considered the age of the document. Both letters were said to have been affected by exposure to liquid. The appellant explained that drops of water came from a leak from the roof of a mud house. Mr Zadeh is aware of the roofing problems in Afghanistan. Roofs are protected by layers of mud and straw which require renewal each year.
376. He stated that "... Having considered the colour, drops'(sic) the uneven spreading of the drops, I am convicted (sic) that the wear and tear in fact could have been affected leaking water in a mud house."
377. I bear in mind that Mr Zadeh examined the letter four years after it was written. He did not however consider alternative sources of how the droplets got onto the letter. Although at best that theory is speculative, Mr Zadeh stated that he was "convicted", by which he intended to say "convinced" that the drops were referable to leaking water in a mud house.
378. Mr Zadeh also relied on "the folds": by folding both threat letters in half, one can easily fit them into the envelope that he received. However, how that is relevant to the issue of the genuineness and authenticity of the letters, is not explained.
379. He also claimed that the documents "show correct feel, look and texture of a standard photocopy and print paper" - paragraph 15, page 215. However, as submitted, in the absence of an informed opinion that the letters were written on a special type of paper used by the Taliban, the observation by Mr Zadeh does not carry much weight. The 'letter' was on standard A4 paper, available everywhere, and is not probative of the authenticity of the letters.
380. Mr Zadeh indeed stated that he was aware of articles and reports relating to the forgery of Afghan documents – paragraph 17, page 215. Forgers of documents are prosecuted by the Afghan government. The Afghan government has taken a very harsh stand against the Taliban, their supporters and patrons. Forging, buying or selling a Taliban letter in Afghanistan is regarded as aiding and abetting the terrorists and is likely to carry a substantial prison sentence. Mr Zadeh sets out the statistics in this respect from pages 216-217.
381. The original letters produced have been translated by two different companies, namely, by Focus Interpreting and Translation and by Habibi Interpreting and Translation. These are set out in the respondent's bundle at A1-2 and A4-5. Mr Kotas has identified differences between the two. As already noted, in the Habibi version, the "emblem" is marked as appearing on the right hand side at the top of the page, and in the Focus version on the left. There is no text relating to Jihad which appears in the Habibi version at the top left of the page.
382. In the letter allegedly addressed to the appellant's father, the Habibi version referring to "believers" is not contained in the Focus version which simply states "all Muslims are brothers" and not "all believers are brothers."
383. Further, the Habibi version states "all brothers (Muslims) are brothers and all believers (Muslims) are brothers" is not consistent with the Focus version. Nor is it clear why there is reference to "brother" in the singular or whether this discloses

incorrect grammar in the original letter or an error made by the translator in the Habibi version.

384. Further, the letter to the appellant contained further differences. This relates to the emblem and the reference to Jihad which are repeated as with the letter to his father. The Habibi version contains an additional sentence “seeking knowledge is obligatory upon every Muslim man” which is not contained in the Focus version. The Habibi version states “Madrassa (religious school)” whereas the Focus version simply refers to “Madrassa”.
385. Mr Kotas submitted that it is curious that the author of the night letter who is addressing a fellow Afghan, would feel the need to define in brackets what a Madrassa is. He queries whether this has not simply been drafted for the benefit of Western eyes. However, it may well be that the translators of the letter felt it appropriate to identify what a Madrassa is. I do not find that to be of significance one way or the other.
386. I also note that the end warning in the two translations is different. The Habibi version talks about the family being “wiped out” which is a euphemism for “killed” whereas the Focus version talks directly about killings and that no-one will ever find “your dead bodies” which is not contained in the Habibi version.
387. I have also had regard to the submission that there are no overt security features in the letter. Nor has Mr Zadeh addressed why the letters could not simply be counterfeit, or a copy or imitation of the night letters. More significantly, there has been no mention of any specific comparative analysis alongside other such letters that he claims to have handled in the past.
388. I have taken into account the Refworld report relating to the “authentication” of night letters at paragraph 9.1. There the EASO concluded an analysis of Afghan letters by stating that it is not possible to list indispensable features of genuine Taliban night letters or to define what they should look like, and it is very difficult to distinguish between genuine Taliban letters and forgeries. The independent analyst stated that the documents purporting to be from Afghanistan, including night letters, are difficult to authenticate even with a detailed understanding of the particular case history of the document. This was noted as being the position as at 9 January 2015.
389. The report does not appear to have been considered by Mr Zadeh. Further authentication would involve consulting village elders for their opinions. I have already noted that the opinion of the professor referred to in the EASO analysis appeared in a wide variety of peer reviewed journals and media sources, and he continues to conduct regular field research in central and South Asia.
390. I have also considered the “objective evidence” according to the Danish Immigration Service that there is regional variation in the use of night letters, with the research group explaining that some targets would normally expect to receive multiple warning letters before action against them is taken, whereas there are cases in which physical assaults and murders are carried out without advance warning or letters.
391. As submitted, none of these “nuanced distinctions” have been referred to or acknowledged by Mr Zadeh. Accordingly the kidnap of the appellant's father after receiving one such letter does not appear to be consistent with the objective evidence.

392. More significantly, Mr Kotas submitted that from the background evidence, forged threat letters can be obtained or made to order for a fee. In the information it provided to the Danish Immigration Service, CPAU indicated that it is quite easy to fabricate a Taliban night letter and that for different reasons people will occasionally “pretend” to be the Taliban in order to employ threats by night letter or text.
393. As indicated, I assess the evidence relating to night letters in accordance with the Tanveer Ahmed principles in the round, having regard to all the other evidence in the case.
394. I have considered the evidence of the appellant in the light of Judge Hodgkinson's earlier findings.
395. I have had regard to the fact that although the appellant is currently 19 years old I must assess whether any inconsistencies in his evidence arising from his interviews or his oral evidence, may be associated with his disorder as set out in the report of Dr Thomas. She has asserted that the current disorder renders him with impaired memory, concentration and orientation to time and place. This diagnostic picture will cause impairment to his ability to provide a coherent narrative of the past, especially traumatic life events – paragraph 84, page 130.
396. In that respect, it is evident that Judge Hodgkinson himself bore in mind the appellant's age, both at the time the events claimed to have given rise to his asylum claim would have occurred in Afghanistan, and his age at the hearing. He also gave the appellant “the benefit of the doubt” in relation to any adverse credibility contentions. He focused on adverse credibility contentions which he found still had sustainable merit, after taking into account the appellant's age.
397. I was informed that there was not a successful challenge to Judge Hodgkinson's decision.
398. He found that the appellant gave contradictory evidence regarding his father's work as an interpreter, which I set out in summary.
399. He noted at [22] that in paragraph 5 of his SEF statement, the appellant stated that children at his school would ask him what work his father did. The appellant then asked his father who only told him that he worked as an interpreter. He stated that he did not tell him anything more.
400. However, in his asylum interview he said that when he asked his father about his job, his father replied that he was an interpreter for the Americans.
401. In addition, Judge Hodgkinson made significant adverse findings regarding the chronology of the appellant's journey, as set out at [24-36] of his determination. The appellant claimed to have arrived in the UK on 18 February 2013. This followed a journey of about five months travelling from Afghanistan. In his SEF statement however, he claimed that his father received a letter from the Taliban one month prior to his departure from Afghanistan. On that evidence he would have received the letter in about mid August 2012 and would have left Afghanistan in about mid September 2012 bearing in mind that he claimed to have arrived here on 18 February 2013.
402. However, there was a Eurodac fingerprint match showing that the appellant was already fingerprinted in Greece on 22 July 2012 and again on 31 December 2012

which placed the appellant in Greece prior to the month in which he claimed his father received the threatening letter in Afghanistan.

403. That he found was compounded when regard is had to paragraphs 21-22 of his SEF statement. His evidence indicated that his journey from Afghanistan to Greece would have taken about three and a half months, meaning that, as he was fingerprinted in Greece on 22 July 2012, he must have left Afghanistan according to this account no later than the latter half of April 2012. In his appeal statement the appellant indicated that his journey time from Afghanistan to the UK was either five or six months and that it is possible that he had mistaken the time by a few months.
404. However, even allowing for his age, Judge Hodgkinson did not find his explanation for this significant discrepancy, to be credible. He found it seriously damaging to the credibility of his core account.
405. In addition, at paragraph 21 of his SEF statement the appellant claimed to have been in Greece for only a month, and yet it is clear that he was in Greece in July 2012 and also at the end of December 2012. Even allowing for his age, and even allowing for some error of how long he spent there, he concluded that it is not credible that he could conceivably have believed he was only in Greece for a month when he was clearly there for several months.
406. He considered his solicitors' written submissions at [27] where they acknowledged that his journey might have taken longer than five months and that he accepted that he was fingerprinted twice, whilst in Greece, adding that he was not sure about the time he spent in Greece, and that he believed that he made a mistake in calculating the time of his journey.
407. However, Judge Hodgkinson bore in mind that that submission was only made after the fact of his being fingerprinted in Greece in July 2012, was put to him in his asylum interview as was the fact that he was supposed to be in Afghanistan at that stage. He accordingly found that this particular submission did not assist the appellant's credibility.
408. Further, during his asylum interview, the appellant claimed that the threatening letter also included a demand for him to join the Taliban as well as requiring him to stop attending school. However, neither in the screening interview nor in his SEF statement, did he make any reference to the threatening letter from the Taliban requiring him to join them.
409. During his cross-examination before Judge Hodgkinson, the appellant was asked what the Taliban letter addressed to him had said. He replied that the letter specifically stated that he should give up school and that he was required to join and work with the Taliban. However, in his appeal statement he indicated that there was only an indirect indication in that letter that he should join the Taliban. Even bearing in mind the appellant's age, Judge Hodgkinson found the discrepancy in his evidence with reference to the content of that Taliban letter to damage his credibility.
410. The appellant also stated in cross examination before Judge Hodgkinson that both Taliban letters, i.e. addressed to his father and to himself, were written by the same person, they had the same signature, adding that he could see the signatures were the same on both letters.

411. However, at the asylum interview when asked what the Taliban letter addressed to his father contained, he said he did not see the letter but that he heard his father and mother in conversation which is how he became aware that it was written by the Taliban [31]. In cross-examination however, he sought to explain the discrepancy, indicating that his mother subsequently showed him the letter in question. However, that is not what the appellant claimed in his asylum interview, specifically indicating when asked what the letter from the Taliban addressed to his father said, he stated that he had not seen it.
412. Again Judge Hodgkinson found that discrepancy affected his credibility, even making appropriate allowance for his age.
413. I note that Judge Hodgkinson expressly confirmed that he bore in mind the appellant's age in respect of each and every element of the available evidence, and specifically in relation to adverse credibility contentions which he made, and that he had disregarded certain of the respondent's adverse contentions accordingly. He focused on those adverse credibility contentions which he found still have sustainable merit, even taking into account his age.
414. I have considered the appellant's evidence before this Tribunal on 14 March 2018. I bear in mind that his evidence was given four years after his evidence before Judge Hodgkinson, and over three years before giving evidence before the First-tier Tribunal Judge Davidson. She noted that the appellant was not cross-examined at that hearing regarding his account of the events which led him to leave Afghanistan and has explained the inconsistencies identified earlier in the process [27].
415. She found that some of the appellant's evidence, in particular regarding the Facebook contact with a family friend and subsequent contact with his family in Afghanistan, lacked credibility.
416. In his evidence before the Upper Tribunal he accepted that other than his immediate family, the only other family he had in Afghanistan was his uncle. He agreed in cross examination that both families had a good relationship and accepted that this was so, given that his uncle helped him escape.
417. However, the account he disclosed to the psychologist, Dr Thomas, revealed that both families had difficulties and were involved in a feud which he found scary and sad for him as sometimes there were physical fights within the family due to this. He understands that the fights were due to property and territory disputes (paragraph 7, page 107).
418. He sought to explain this discrepancy by asserting that at the end of the day, 'family is still family'. That is why his uncle helped him to escape.
419. I have considered his explanation as to how he came to be in possession of the night letters. He said he had been able to speak to his mother in Afghanistan on occasion. He was able to make contact with her in 2015 after he had been in the UK for two years and had managed to get in contact with one of his family friends on Facebook.
420. He said it is difficult to speak to her as there is very often no electricity but sometimes she is able to call him. He stated that she was able to help him by sending the Taliban threat letters. She took the night letters to Jalalabad to be posted to the appellant.

421. The appellant claimed that his mother is not educated and that she had wanted him to read the letters to her – paragraph 31 of his witness statement, page 6. However, there was no explanation as to how she would have been able to take down his English address over the telephone in order to send the letters to the UK. It had not been contended by him that any other person was involved in the process. Nor did the appellant claim when he spoke to his mother, that he spoke to any other person who would have been in a position to record his name and address in English at the time.
422. In his current witness statement dated 3 July 2017 he stated that it is very difficult to speak to his mother as there is often no electricity but sometimes she is able to call him. He was unable to remember when he last spoke to her. She did not even call him during Eid. In cross examination he stated that since making his statement in July 2017, his mother has since called him. She is in Jalalabad. In his evidence he stated that he speaks to his mother every couple of months.
423. As already noted, the appellant however adopted his witness statement dated 3 July 2017 as true and accurate, to the best of his knowledge and belief. In addition he has produced an addendum witness statement dated 27 February 2018 which he referred to as an update to his previous witness statement dated 3 July 2017.
424. Nor do I find the appellant's evidence of his apparent lack of concern as to how his mother was supporting herself and that he does not know what his siblings were doing and that he has not spoken to them, to be credible.
425. There is also force in Mr Kotas' submission that the appellant has done nothing to obtain evidence relating to his contention that his father worked as a translator. Whilst there is no duty on him to corroborate his claim, there were opportunities available for him to adduce evidence that he worked as a translator. It is asserted that he worked for an American company in a formal capacity.
426. No approach has been made to them. Nor has any reason been advanced as to why that had not been done, nor whether such evidence was not capable of being obtained.
427. The appellant's father spoke English. He was educated and had attended university. The appellant said that his father was very educated and spoke English and taught the appellant English at night.
428. The appellant has also sought to blame counsel who represented him before Judge Hodgkinson in June 2014. He has asserted at paragraph 64 of his statement that she did nothing to protect him. He had never met her before the hearing and was nervous that the Tribunal would think he was lying.
429. However, it is evident that she relied on a skeleton argument as noted by Judge Hodgkinson at [15]. She also lodged additional documents regarding his age. It is clear that he considered the credibility of the appellant's account in the context of relevant country material that she referred to him. Such material was identified in her skeleton argument. Judge Hodgkinson noted that there is no contention that his account is other than plausible in the context of the material produced, but that does not necessarily establish the truthfulness of his account [33].

430. From the foregoing I reject the appellant's contention that counsel said nothing to protect him. This has never been put to counsel and she has not been invited to respond to these allegations.
431. As part of the evidence as a whole I have also considered Dr Thomas's report. I have summarised her findings. She found that the appellant was suffering from moderate to severe symptoms of major depressive disorder with some significant post-traumatic traits. She did not however find that he is in fact suffering from PTSD, but he has a number of traits (paragraph 62 of her report, at page 124). He has experienced post-traumatic nightmares intermittently and feels distressed when he wakes up from them.
432. Mr Kotas submitted that there is a problem of causality: Dr Thomas cannot differentiate whether the underlying cause of his disorder is referable to the events in Afghanistan and/or other factors. The appellant himself claimed to have suffered trauma and hardship in Greece on his way to the UK and that he was unable to talk about it when he first arrived in the UK. He also stated that he has suffered quite serious emotional and physical abuse as a child as a result of a family feud and mistreatment at school. This was referred to by Dr Thomas at paragraphs 7-9 of her report. It is not evident however that these difficulties and stresses that he grew up with featured in her conclusions on causation.
433. She has attributed his problems to events in Afghanistan and Greece. Of causal significance is his current insecure immigration status in the UK as a failed asylum seeker facing removal.
434. I find that there remains evidence of other possible causes of his mental health disorder.
435. Dr Thomas appears to make little or no reference to the background material in the form of supporting witnesses and the like which she referred to in paragraph 3, at pages 7-8 of her report.
436. She had not seen any GP records or other medical evidence. The appellant stated in evidence that he had never seen a GP about any psychological problems, nightmares, apparent suicide attempts and the like. Nor was he currently undergoing any form of therapy or treatment. He was never on any medication for depression, insomnia and the like, notwithstanding the recommendation of treatment by Dr Thomas in 2017.
437. Mr Kotas contended that the content of her report appeared to be based entirely on his own self reporting. However, as noted by Ms Francis, the Court of Appeal has held that medical evidence cannot simply be rejected on the basis that a medical report has uncritically accepted an account. In any event, Dr Thomas found that his presentation was clinically plausible and she found no evidence of fabrication.
438. The symptoms set out in the report, including low mood, social withdrawal, suicidality, self harm and the like, are not referred to in any detail in either the appellant's nor [K]'s statement. [K] has referred to his having nightmares. However, she noted that he has successfully contributed to the [PT] and has also achieved well in school.
439. With regard to the scars which is claimed are consistent with a suicide attempt, the appellant was not hospitalised as a result; he never saw a GP about this and never

disclosed to his foster parents what had happened. He indicated that he bandaged the scars himself.

440. I have paid particular regard to the evidence from the appellant and [K] regarding the psycho-social therapeutic support he has received through his theatre work. I have had regard to Dr Thomas's conclusions. Whether his current disorder traits are referable to events in Afghanistan and/or Greece, the appellant has nevertheless presented with traits including post traumatic traits which are of significance.
441. With regard to the report of Ms Winterbotham, Mr Kotas has accepted on behalf of the respondent that there is nothing 'incredible' about the appellant's claim that his father worked as an interpreter and was kidnapped by the Taliban for such activities. That was accepted by Judge Hodgkinson as well. Ms Winterbotham's report accordingly confirms the plausibility of the appellant's account.
442. Ms Winterbotham's report does not seek to explain the discrepancies in his evidence as found. She asserted that the treatment regime advised would not be available to the appellant.
443. Ms Francis has contended that there would be a lack of a support network available to the appellant, which presents a barrier to internal relocation. He has no network or family in Kabul. The conditions there would be unduly harsh for him. That is particularly so as he is not a single able bodied man but has vulnerabilities.
444. I have already referred to the findings of the Upper Tribunal in AS (Safety of Kabul) Afghanistan CG [2018] UKUT 00118, with regard to Ms Winterbotham, where it is accepted that her report confirms the general plausibility of the appellant's claim regarding his father's work as an interpreter for the Americans.
445. I have also borne in mind Ms Francis's submissions regarding the risk to the appellant on account of Westernisation. As already noted in in this regard, the Tribunal in AS concluded that there is simply a lack of any cogent or consistent evidence of incidents of such harm on which it could be concluded that there was a real risk to a person who has spent time in the West being targeted for that reason. The evidence falls far short of establishing an objective fear of persecution on this basis for the purposes of the Refugee Convention.
446. I have also had regard to the Upper Tribunal's other findings on risk and in particular that there is no real risk that a low level individual could be successfully targeted by the Taliban in Kabul.
447. Judge Hodgkinson concluded that the appellant's father did not work as an interpreter in Afghanistan. He found that no threatening letters were received by him or the appellant from the Taliban, and that his father was not abducted contrary to assertion. He found that the appellant's immediate family including his father, continued to live in their home address in Afghanistan and that the appellant can rejoin them there. The Taliban have shown no adverse interest in the appellant or in any member of his family.
448. Having considered the evidence of the appellant and the evidence of the three experts in some detail, I find, having regard to the evidence as a whole, that, even taking into account the appellant's age and vulnerability, the significant contradictions and deficiencies in his evidence set out herein, have not undermined Judge

Hodgkinson's earlier findings regarding the appellant's credibility. His findings shall accordingly stand.

449. In the circumstances I find that the appellant has immediate family whom he can rejoin. I also find that the Taliban has shown no adverse interest in the appellant or in any member of his family. The appellant will not be an obvious target for the Taliban and would not fit the criteria for inclusion on any blacklist, even if such lists exist.
450. Nor do I find that the appellant would be at risk on return to Kabul, even if returned there, as a member of a particular social group who has been "Westernised".
451. I take into account that the Tribunal in AS noted that the particular circumstances of an individual applicant must be considered in the context of conditions in the place of relocation including his age, nature and quality of support networks and connections with Kabul and Afghanistan, including his physical and mental health, his education and vocational skills and the like in order to determine whether or not he is at real risk of persecution from the Taliban in Kabul.
452. Notwithstanding the report of Dr Thomas in 2017, the appellant has not availed himself of any opportunity for treatment. He did not go to a GP prior to being introduced to Dr Thomas.
453. I find and accept that he has had the benefit of a relationship with [K] as well as his association with the [PT]. I also note that he has various educational and vocational skills.
454. I do not accept that he would have no support from family members. He would return to his home area to reunite with his family where he would be supported. It was submitted by Ms Francis that his mother would not be able to reach Kabul as a lone woman. However, even if the appellant were not to return to his home area, there is no satisfactory evidence produced that his mother would not be able to be accompanied by a male to Kabul in order to provide proper support, nor that such support would not be able to be provided by another family member even for a finite period until he has effectively reintegrated.
455. The Tribunal did not accept at [237-238] that the guidance on whether Article 15(c) threshold is met in Kabul as referred to the decision in AK (Article 15(c)) Afghanistan CG [2012] UKUT 163 is no longer binding. The mere passage of time did not render such guidance inapplicable.
456. The evidence before the Tribunal was consistent with the findings set out in AK, that the level of indiscriminate violence in Kabul is not at such a high level as meaning that, within the meaning of Article 15(c) of the Qualification Directive, a person faces a real risk: AK accordingly remains good law.
457. The Tribunal also noted that in Kabul there is better access to healthcare than in the provinces of Afghanistan. However, there is clearly a shortage of equipment and demand which outstrips supply. In that respect I have also had regard to potential assistance packages which are in place. I again take into account that the appellant is currently 19 whereas the appellant in AS was 31.
458. However, the appellant remains able bodied. Notwithstanding his disorder, he is not on any medication. Nor has he ever sought out any treatment for any of his problems.

459. Having regard to the evidence as a whole, I find that the appellant has not shown, even to the lower standard, that he will be at real risk on return to Afghanistan.
460. With regard to his Article 8 claim, I find that he enjoys significant private life in the UK. He has now lived here since February 2013. He has established an extensive support network. He is in a 'romantic relationship' with [K] and is intensely involved in, and committed to, his theatre group and the [PT].
461. In that respect I have had regard to the filmed footage which was played to the Tribunal on the DVD, which was submitted in support of the appeal. The appellant has participated as an actor in various productions. He has also participated as a work shop leader delivering workshops to local authorities, universities, school and arts organisations on forced migration.
462. I have paid particular regard to the evidence of [K], an impressive witness, whose evidence I accept.
463. I find that Article 8 is engaged on the basis of the private life that the appellant has established in the UK over a number of years. The respondent's decision is in accordance with the law. I have had regard to the importance of maintaining firm and effective immigration control.
464. I move onto the fifth Razgar question which concerns proportionality. This involves a balancing exercise. In considering proportionality I must have regard to the considerations set out in section 117B of the 2002 Act. The maintenance of effective immigration controls is in the public interest. The appellant speaks English fluently. He appears to be financially independent. However, his status in the UK has always been precarious.
465. I find that the appellant has made a significant contribution to the community. This is endorsed by the South Bank Centre, Bunker Theatre, publicists and theatre directors, and by the former Assistant Commissioner in the Metropolitan Police Service and the current principal of St Anne's Oxford as well as other members of the public whose lives have been changed by his role in the stage play, which I was informed may be made into a film in the United States.
466. I find that he has developed unique relationships over the past few years and has become integrated into the community and private life in the UK. He has an ongoing relationship with [K], which cannot realistically continue in Afghanistan. I find that it is not reasonable to expect her to relocate there.
467. The appellant has trained as an electrician and is capable of taking up employment and becoming self supporting.
468. He has developed close personal and social ties and has established significant roots within the community. He will not be able to replicate the nature and quality of his relationships and associations, were he to be returned to Afghanistan.
469. Having regard to the evidence as a whole I find that the proposed removal of the appellant constitutes a disproportionate interference with his right to respect for his Article 8 rights. I accordingly find that the respondent's decision is disproportionate and there would therefore be a breach of Article 8 if his appeal were dismissed.

Notice of Decision

I dismiss the appellant's appeal on asylum, humanitarian protection and on human rights grounds under Articles 2 and 3 of the Human Rights Convention.

I allow the appellant's appeal under Article 8 of the Human Rights Convention.

Anonymity direction continued.

Signed

Date 21 June 2018

Deputy Upper Tribunal Judge C R Mailer