



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

In the matter of an application for Judicial Review

The King (on the application of ANH)
(Anonymity Direction made)

Applicant

versus

London Borough of Croydon

Respondent

ORDER

BEFORE Upper Tribunal Judge Kopieczek

HAVING considered all documents lodged and having heard Ms A Patyna of counsel, instructed by Osbornes Law, for the applicant and Mr J Swirsky of counsel, instructed by the London Borough of Croydon, for the respondent at a hearing on 17 and 18 January 2023, there being no appearance by either party at the handing down of the judgment on 5 May 2023

IT IS DECLARED THAT the applicant's date of birth is 12 January 1996

IT IS ORDERED THAT:

1. The application for judicial review is refused for the reasons in the attached judgment.
2. The anonymity order, made pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, shall remain in place. No-one shall publish or reveal any information, including the name or address of the applicant, likely to lead members of the public to identify him. Failure to comply with this order could amount to a contempt of court.
3. The order granting interim relief made on 22 March 2022 by Hugh Mercer KC, sitting as a Deputy Judge of the High Court, is discharged.
4. The applicant shall pay the respondent's reasonable costs of the judicial review proceedings on the standard basis, to be the subject of a detailed assessment, if not agreed. The applicant having the benefit of cost protection under Section 26 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the amount that he is to pay shall be determined on an application by the respondent under Regulation 16 of the Civil Legal Aid (Costs) Regulations 2013.
5. There shall be a detailed assessment of the applicant's publicly funded costs.

6. Permission to appeal to the Court of Appeal is refused, there being no arguable error of law in the decision.

Signed: A. M. Kopieczek

Upper Tribunal Judge Kopieczek

Dated: 5/05/2023

The date on which this order was sent is given below

For completion by the Upper Tribunal Immigration and Asylum Chamber

Sent / Handed to the applicant, respondent and any interested party / the applicant's, respondent's and any interested party's solicitors on (date): *05/05/2023*

Solicitors:

Ref No.

Home Office Ref:

Notification of appeal rights

A decision by the Upper Tribunal on an application for judicial review is a decision that disposes of proceedings.

A party may appeal against such a decision to the Court of Appeal **on a point of law only**. Any party who wishes to appeal should apply to the Upper Tribunal for permission, at the hearing at which the decision is given. If no application is made, the Tribunal must nonetheless consider at the hearing whether to give or refuse permission to appeal (rule 44(4B) of the Tribunal Procedure (Upper Tribunal) Rules 2008).

If the Tribunal refuses permission, either in response to an application or by virtue of rule 44(4B), then the party wishing to appeal can apply for permission from the Court of Appeal itself. This must be done by filing an appellant's notice with the Civil Appeals Office of the Court of Appeal **within 28 days** of the date the Tribunal's decision on permission to appeal was sent (Civil Procedure Rules Practice Direction 52D 3.3).



Case No: JR-2022-LON-000606

IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

Field House,
Breams Buildings
London, EC4A 1WR

17 and 18 January 2023

Before:

UPPER TRIBUNAL JUDGE KOPIECZEK

Between:
THE KING
on the application of
ANH
(ANONYMITY ORDER MADE)

Applicant

- and -

LONDON BOROUGH OF CROYDON

Respondent

Ms A Patyna
(Counsel instructed by Osbornes Law), for the applicant

Mr J Swirsky
(Counsel instructed by the London Borough of Croydon) for the respondent

Heard at Field House on 17 and 18 January 2023

J U D G M E N T

Judge Kopieczek:

INTRODUCTION

1. The applicant is a citizen of Iran who asserts a date of birth of 13 April 2004. Following a 'short-form' age assessment undertaken by the London Borough of Croydon on 4 November 2021, the respondent assessed him as having a date of birth of 12 January 1996.
2. These judicial review proceedings challenge the respondent's

assessment of the applicant's age.

3. The applicant does not rely on any documentary or witness evidence, aside from his own evidence, in support of his claimed date of birth. The respondent relies, amongst other things, on the age assessment to which I have referred and the witness statements of the social workers who undertook that assessment, as well as certain Home Office interviews conducted with the applicant. The main, agreed, bundle of documents extends to 336 pages.
4. Both parties provided very helpful skeleton arguments and there was a written summary of the applicant's closing submissions.
5. Prior to the hearing an application was made on behalf of the applicant for permission to rely on a second witness statement from him. The application was unopposed and I granted it at the start of the hearing.

THE ORAL EVIDENCE

6. The following is a summary of the oral evidence given by the only witness to give evidence, the applicant. He gave evidence with the assistance of a Kurdish Sorani interpreter.
7. In examination-in-chief, he adopted his witness statements, with the second witness statement being signed on the first day of the hearing, thus dated 17 January 2023. The first witness statement is dated 11 February 2022.
8. In cross-examination the applicant gave the name of the village in which he was born and said it was a small village with about twelve families. It was very close to the Iraqi border, about an hour by car. The village had electricity and water and was about 40 minutes from the nearest town.
9. He went to that town about ten times. There was no school in his village and the nearest school was in that town. The mosque was in a town called Alwatan which was about 40 to 45 minutes away on foot. The school was in a town called Merawa. He went to the mosque in Alwatan but not very often.
10. His parents had a shop in the village but did no other work. They had no car. He never went to school. In Iran, he was unable to read and write. He could count and could add up small numbers. He helped his parents in the shop.
11. In Iran he did not know about (calendar) dates. There was no calendar in their house. When he was in Iran he knew that the year was either 1400 or 1389, and then stating that it was 1400. He knew what year it was because his mother used to tell him every year.
12. The question was clarified. The applicant was told that he was not being asked about his birthday but was asked whether, if a person met him in Iran, he would be able to tell that person the year. The applicant said he

did not think so. He would not be able to say what month it was if asked in Iran. He knows some of the names of the months and knows the names of the months in numbers but he knows them mixed, in names and numbers. The only day of the week he knows the name of is Friday. That is because on Friday he sometimes used to go to the mosque. His father would tell him that it is Friday and they used to read the Qur'an.

13. In Iran, if he was asked how old he was, he would be able to say in terms of the year, but not the day and the month. He knows the year because his mother used to tell him yearly.
14. He knows the age of his sister. He was referred to his first witness statement at paragraph 4 where he said she was about 12 last year. When asked whether he knew the exact date, he said that she was 12 years old, then stating that he did not know how old she is. He was there when his mother would tell his sister it was her birthday. She only said the year (but not the day and month).
15. His parents came from the same village and lived there all their lives. He does not know if his father or mother went to school but both his mother and father could read and write.
16. His parents were poor and had no savings. He only had two uncles. One lived in Alwatan and the other lived in Merawa. The uncle in Alwatan was his father's brother. That uncle was married and had one son. He was a farmer and was not rich. The uncle in Merawa was his father's brother. He was married but had no children. He worked in a carpet factory. As to whether he was rich, he was much better off than they were.
17. He did not have a phone in Iran. His parents had a landline.
18. The applicant was referred to paragraph 10 of his first witness statement which reads as follows:

"I used to have an ID card called a shenasnameh. I never looked at it because I didn't need to, and my mother kept it safe for me. I never had any need to use it because my village was so remote, and there were no hospitals or anywhere else you would need to use an ID card. I no longer have this ID card and I will discuss why later in my statement."

19. The applicant said he never looked at his ID card and does not know what it looked like. He does not remember how his parents got it for him.
20. He was referred to paragraph 8 of his first witness statement which states as follows:

"I was born on 25 Farvadin 1383. I know my date of birth because my mother told me every year on the day that I was born. She would hug me and tell me I was born on the same day. She did the same for [his sister]."

21. In cross-examination, the applicant was referred to an answer he had earlier given in evidence about whether he knew the day on which he was born and his having said that he knew the year and not the day. The applicant replied that he only knew the day and the month of his birth. He only knew his day and month of birth but does not know other days or other months.
22. It was put to him again that when he had been asked earlier he said that his mother told him the year but not the day and the month. He was then asked how, therefore, he knew the day and the month. The applicant said that before she used to tell him the day and the month but only once. Then she used to say you had turned 15 or 16. As far as he remembers he was 13 or 14 years old when she told him for the first time when he was born. The last time she told him he was 17 years of age. He agreed that his mother only told him the day and the month he was born when he was 13 or 14 years old. His mother told him the name of the month, Farvadin, and the number of that month. He did not understand what she was talking about when she told him the name and number of the month. He just remembered it.
23. He worked as a kolbar (transporting goods across the border on foot) for six or seven months. The jobs he had were working in his parents' shop sometimes and working as a kolbar. He delivered goods to and from Iraq. This was smuggling. He collected the goods from the mountains in Iran to take to Iraq. The mountains were approximately two or two and a half hours away. There was then another half an hour or 40 minutes to the border. He agreed that he had earlier said that it takes one hour in a car to get to the Iraqi border. As to why it was that he was now saying that it was three hours at most to walk to the Iraqi border, the roads are not all paved so cars do not travel very fast.
24. Other people were also working as kolbars. He worked with his cousin Mohammed. He was older, being 18 years of age. He does not know whether people thought of him as a child or as a man when he was doing that work. They all worked equally. He was paid 300,000 toman and sometimes 700,000.
25. He always worked with Mohammed. It was Mr Hussain (their boss) who asked him, the applicant, to deliver a letter from the KDPI from Iraq back to Iran. He and his cousin were not with the KDPI but worked for Mr Hussain.
26. As to why he, the applicant, was asked to deliver the letter rather than Mohammed, he said that they were together and they delivered it together. Asked whether the letter was delivered he said that it was.
27. He was asked about paragraph 12 of his first witness statement which, as to the first sentence, reads as follows:

“My cousin went to work carrying more goods and I had a day off, so went to see my maternal uncle and aunt.”

28. The applicant was the asked where this uncle and aunt lived. The applicant said that he had not mentioned his uncle. Mohammed is his paternal not maternal cousin. He lived in Alwatan.
29. Asked again where the maternal uncle and aunt who he visited on the day he had a day off lived, the applicant repeated that he did not remember mentioning his maternal uncle. Asked who he went to visit when he had the day off, he said that he did not know what day was being referred to. He then said that on the day he wanted to leave Iran he visited his paternal uncle. It was not his maternal uncle. That uncle lived in Merawa. He went there on foot. It took more than three hours because he had to go carefully.
30. Asked why he had to be careful, he said that it was because the Iranian police were looking for him. Asked about his witness statement in which he said that he was at his maternal uncle and aunt's house when he received a phone call from his father to say that Mohammed had been captured by the Iranian police and had given his name to the authorities, the applicant said that he was in his (own) house when his uncle contacted his father. What is in his witness statement about his being at his uncle's house when he received the phone call from his father, is not correct.
31. The applicant said that he had clarified with his solicitor that he had referred to his paternal uncle and not maternal uncle. As to whether he was at his own house or at his uncle's house when he received a phone call, he said that his witness statement had been written down the other way round.
32. As to the letter from the KDPI, it was hidden in his father's house. As to why he had said earlier that he and Mohammed had delivered the letter, he said that they delivered it together. However, that day Mohammed had work and Mohammed said to him that as he was going home he was to take the letter with him. He did not deliver the letter. The letter was at home.
33. The applicant was asked about his age assessment although he was not initially clear about what was being referred to, stating that that he had had a few meetings. The age assessment he was referred to took place on 4 November 2021.
34. The applicant was referred to the following from that age assessment:

"[A] Continued to say 'Because I had a day off, I went to my auntie's house. Cousin went to work alone on the way back got captured, during interrogation he gave my name away'. 'When I went to my auntie, my father was home and he call me and said your cousin captured'. 'From auntie's house, my father sent me away to Turkey'."
35. The applicant confirmed that he went from his uncle's house to Turkey. It was put to him that he had just said that it was his uncle who phoned his

father and that he was at his father's house at the time. The applicant confirmed that that was correct. He then said that he did not remember saying that he was at his auntie's house during that age assessment.

36. The applicant was referred to paragraph 13 of his first witness statement. That refers to the applicant having left Iran by van, his uncle paying the driver and his uncle giving him some documents in a folder, telling him to keep them safe and to show the authorities in a safe country to prove his identity. It goes on to state that he looked inside and there were a lot of papers but he did not remember seeing his ID card, although was sure that it was there. In cross-examination the applicant said that although it says there that the documents were given to him, in fact the documents were sent to him, having been sent to the agent. That happened whilst he was on the way (out of Iran).
37. The applicant confirmed that his father received a call from his uncle which said that he was in danger. He left on foot and went to his uncle's house. That is the uncle in Merawa. He left the letter at his father's house. His father did not also flee. He had hidden the letter and his father had no information about that letter.
38. He did not stay at his uncle's house long. He told his uncle what had happened, as he had asked him. The applicant was asked why his uncle would need to do that since he was the one that had told him (by calling his father) to say what had happened. The applicant said he wanted to clarify that Mohammed's father had contacted his own father but he then went to the other uncle's house. His uncle got really upset with him and told him he had made a mistake. Then he sent him away, arranging for him to leave the country. He stayed for hours but not days.
39. His uncle's friend drove him to the border and his uncle paid him. The documents were sent to him, not given to him. They were given to the agent in France. He does not know how those documents got to the agent in France but they were sent to the agent. He never looked at the documents and does not what they were. He told the age assessors that he had his ID document there because he was told on the phone that there were some documents including his ID card. This phone call was when he was in France. The agent gave him the phone and he spoke to his uncle.
40. When he left Iran he was told that he would have to go to Turkey. He did not know whether he was going to stay in Turkey. He was only doing what they told him. He was very worried. The only important thing for him was for his life to be safe.
41. His uncle did tell him to claim asylum but he also told him to follow the agent and do whatever he told him to do.
42. The applicant was referred to paragraph 14 of his witness statement. He agreed that he said that he left Iran in the seventh month. He was asked about his second witness statement in which it states that that part of his first witness statement was a mistake. The applicant said that he

does not know what is in the second witness statement (signed on the morning of the hearing). He said that someone helped him to work out that he had left Iran in the seventh month of the Western calendar. He knows it is the seventh month because he arrived in the UK in the ninth month in the UK's calendar. He was able to work that out because he arrived in the UK on the 17th of the ninth month. He took two months to get to the UK. He does not remember saying in the age assessment that he left Iran on 23 September 2021, converted to 01/Mehr.

43. He was referred again to his first witness statement at paragraph 14 in which it is recorded that he said that his boss would tell him how much money he brought in at the end of each month, and he left shortly after he told him how much money he had brought in at the end of the sixth month, which is how he knew that he left in the seventh month. The applicant said that it was only in the UK that he knew he left Iran in the seventh month.
44. As to why he said in his witness statement that he left shortly after his boss told him how much had had made in the sixth month, the applicant said that sometimes he used to pay him monthly or every ten or fifteen days. Not at the end of each month. He does not remember saying in his witness statement that his boss would tell him how much money he had brought in at the end of each month. They did not always work for a month. Sometimes they worked for a week or more. The applicant repeated that he only knew when he got to the UK that he left in the seventh month. He had said that he worked with his boss for six or seven months and maybe this was mixed up (in his witness statement). He agreed that he had an interpreter in the taking of the witness statement and that he was able to communicate with her effectively.
45. The applicant was asked about his journey to the border from his uncle's house and about his uncle contacting the agent when he was in his uncle's house. His uncle paid for the agent, he said. This was the uncle who worked in the carpet factory. He did not know what he did there. He agreed that he said in his first witness statement that his uncle was well-off and knew a lot of people.
46. He crossed the border on foot and was collected by the agent in a car. He does not know how long the car journey to Istanbul took because he was asleep. The next thing he knew was that he had arrived in Istanbul. He agreed with the witness statement which states that the agent told him it was Istanbul. He does not remember the car stopping so that they could get food or petrol. They drove from the border with Iran to Istanbul in one day. He does not know how far it is.
47. He stayed in the flat in Istanbul for 10 to 15 days and then the agent drove him to the sea and put him on a boat to Italy. It was a very long drive but he does not know how long. The agent did not go on the boat with him. There were about 60 other people on the boat, all migrants like him. The boat had a crew but he does not know if they were migrants. They were driving the boat. They all got off the boat in Italy with the

others.

48. The agent told him to go with the other people when they got to where they were going. He had not heard of Italy before. The agent told him not to use his real name when he got to Italy. He said that it would create a danger for both of them otherwise. He just followed what he told him.
49. The Italians did ask him his age and he gave his brother's name. He gave his correct date of birth. There were children and adults on the boat but no children who did not have parents with them. When they stopped in Italy they were taken to another boat where they stayed for a few days in quarantine. There he was asked his name and date of birth. They were then taken by bus to a building.
50. He did not stay at that place for very long because the Kurdish people he was with said that they would have their meal and leave as they were not going to stay there. There was no agent with them at that time.
51. It is correct that he left Iran in order to be safe. He does not know whether he felt safe in the building he had just referred to. He had food but does not know if there was somewhere to sleep because they were only in a courtyard.
52. They had Turkish money given to them by the agent in Turkey. He used that money to buy a train ticket to Paris. As to why he wanted to go to Paris, he only followed others. They bought the ticket and he gave them the money. They changed the money into Euro in a shop.
53. He does not remember how long the train journey was but it was a few hours. They caught one train all the way. The train to Paris was very fast.
54. He went to Paris with the other people because he wanted to stay with them. He followed them to Dunkirk. He did not think about claiming asylum in France. When they got to Dunkirk none of the people he was with explained what the plan was. He did not know why he was in Dunkirk.
55. It is correct that he had been travelling for some weeks before he got to Dunkirk. He did not have any contact with his family during that time. The applicant was referred to paragraph 21 of his first witness statement which included his stating that he thought he was in Dunkirk for just over a month when an agent approached him and told him that his uncle had contacted him and the agent said that he would help him. The applicant confirmed that that was correct. In cross-examination he said that he did not know how his uncle knew he was in Dunkirk. It is correct that he had had no contact with his family before he got to Dunkirk and just followed the other people he was with when he was in Europe. He never intended to go to Dunkirk and he agreed that it was very fortunate that the agent was able to find him.
56. It was the agent who had the documents in a folder and which he gave to him. It is true that not only was his uncle able to contact the agent in

Dunkirk but was able to give the agent some important documents. He did not look at those documents. The agent let him use his phone to speak to his uncle. His uncle greeted him and told him that they still do not know anything about Mohammed, but he had disappeared. His uncle told him to follow the agent's instructions and that he had sent him a phone and some money. The agent gave him the money. He did not know what currency it was because it did not look like his currency. The agent also gave him the phone. He did not use it because he did not know how to, although he did switch it on.

57. He crossed to the UK in a dinghy. He does not know exactly how long after he met the agent that was, but it was less than a month. The agent did not go with him on the boat. On the boat he had to throw his bag into the water. The bag contained food and documents. The money and the phone were in his pocket.
58. When he arrived in the UK he claimed asylum straight away. This was because the agent told him that the place that he would arrive at in the end was the place he was going to stay. All the countries were the same to him.
59. He does not have family in the UK but has friends since he has been here. His uncle does not have friends in the UK.
60. Asked about being interviewed by the Home Office on arrival, the applicant said that he had been interviewed so many times.
61. He remembers an interview taking place over the phone with an interpreter. This was an interview when he arrived. The applicant was referred to the interview that took place on 23 September 2021. He said he did not give his date of birth as 12 January 1996. He does not know how that date of birth came to be written there. He did not give the date of birth of 15 January 2004 as another he had previously used. He does not know how that came to be written. He did tell the Home Office that he had used a different name on his journey to the UK but did not say he had given a different date of birth.
62. The applicant agreed that in answer to question 3.3 of that interview he said that the agent had got them a train to France. As to why he had previously said that there was no agent with him on his journey in Europe, the applicant said that this person, referred to in the interview, was not an agent but was guiding them by Google maps.
63. He does not remember stating in answer to question 3.3 that he left Iran in July.
64. The applicant agreed that in answer to question 5.4 he had said that he had been detained in an unknown country for 10 days, and again here in the UK. He said that because the others, later on, told him that they were detained for 10 days in Italy.
65. The applicant agreed that he was interviewed over the phone in his

hotel. He was referred to the initial contact and asylum registration questionnaire dated 17 March 2022. The applicant was not clear about whether the first interview he had been asked about was over the telephone or not. He said that he did not remember whether in the interview he was now being asked about he was asked details as to his date of birth and details of his journey. He does not know how in that interview a number of other dates of birth came to be written down by the Home Office. He did not give a different date of birth, only his correct date of birth.

66. It is correct, as he said in his witness statement, that he felt devastated when he realised the date of birth that had been given to him. He was visited by two social workers in his hotel who asked him questions about his age and journey to the UK, as he said in his witness statement. He thought that the purpose of the meeting was for them to help him and correct the error made by the Home Office in relation to his age, but instead they said that the Home Office were right. This was very upsetting for him and a big shock. The man said that he was over 25 years of age and he said that he was only 17 years old.
67. He agreed that he thought it would help his asylum claim if he was younger. It is also correct that he told the age assessors that he wanted to study. He had never studied before. He wanted to learn the language and live as British people live. He has friends who are attending college and he would like to go to college as well. He agreed that he thought he would get a better job if he went to college but he does not know whether that would enable him to earn more money. If he finds work he would send money to his family in Iran.
68. He agreed that the personal advisor provided to him in the UK recommended that he be given some additional support. He rejected that because he could not prepare food in the house that he was in as that house was not fit for that. He also knew how to cook and so there was no need for them to bother teaching him. He also knew how to clean, which is also support that they offered him. He knew how to look after himself and did not, therefore, need any help in relation to cooking or cleaning.
69. The applicant disagreed with the suggestion that he was over 25 which is why he did not need the additional support that was offered.
70. In re-examination he said that he learnt how to add small numbers by working in his parents' shop. They taught him how to calculate and not to make mistakes.
71. He learnt the numbers of the months in Iran but learnt more here in the UK. He only knows about reading numbers on the clock and only knows a few names of the months (mixed up with numbers). He only knows a few of the names of the months if he thinks about it well.
72. In answer to questions from me, the applicant said that when he was paid (in Iran) he was told that this was for that particular month and he

would hear the name of the month from his boss, Mr Hussain.

73. The agent told him to give a false name. He did not tell him what name to give. He gave his late brother's name because that is the only name that he could remember at that time. The agent told him to give a false name because he said that he was not staying there and that it would create problems for them if he did not do so.

SUBMISSIONS

74. Mr Swirsky submitted that the focus in the written closing submissions on behalf of the applicant is on the age assessment itself, which was the wrong approach. The age assessment was simply part of the evidence.
75. It was submitted that the applicant's evidence was completely unsatisfactory and lacked credibility, and that if he was unable to be honest about his journey, how he left Iran and how he knows his date of birth, one has to ask why he is not honest, and what he is hiding, including in relation to his true age.
76. It was submitted that a tribunal in an age assessment is highly dependent on an applicant's honesty and their presenting an accurate picture of who they are and how old they are. The most obvious example of this in the applicant's evidence is the need that was felt to provide a second witness statement shortly before the hearing, correcting aspects of his first witness statement. It was not uncommon for a further witness statement to be provided but in his oral evidence the applicant at times rejected the evidence from his own witness statement.
77. In relation to how he knows his date of birth, his oral evidence was different from his witness statement. At first he said he knew the year but not the month or the day, and that his mother told him the year but not the month or day. His evidence later changed to say that his mother told him on one occasion the year, the month and the day when he was 13 or 14 years of age and that after that she only told him the year. It was also difficult to understand how she would know his birthday if the house had no calendar.
78. His witness statement refers to his ID card and the implied suggestion that this would confirm his date of birth but his evidence is that he never saw it or its contents. It was inherently implausible that he would know the day, month and year of his birth only from being told it once when he was aged 13 or 14 years.
79. Furthermore, his evidence changed significantly in relation to what happened on the day when he left Iran. In circumstances where he was giving up all he knew and had to leave the country within 24 hours, one would have thought that these events would stick in his mind. At paragraph 12 of his first witness statement he said he had the day off and went to his maternal uncle and aunt. This then changed to his paternal uncle. In the witness statement he said that there was a call from his father because his name had been given to the authorities and

his father arranged for him to go to Turkey from his uncle's house. This was the same or similar to the account given in the age assessment of 4 November 2021. In his oral evidence, however, he said that he had not gone to his uncle's house but was at his own house. Furthermore, in oral evidence he said at first that the KDPI letter was delivered but then said it was not delivered. His evidence became that his uncle called his father's house and not the other way round and that his uncle made the arrangements for him to leave the country and go to Turkey, not his father. His oral evidence was that he left from his father's house, not his uncle's house as he had said in his witness statement. Those aspects of his first witness statement which were contradicted by his oral evidence were not things that it appears he considered necessary to correct in his second witness statement.

80. Likewise, his account of his journey from Iran to the UK had its own unsatisfactory aspects. In his first witness statement he said that he left Iran by van and that his uncle gave him some documents in a folder and told him to keep them safe and show them to the authorities in a safe country to prove his identity. His oral evidence was different in that it was not his uncle that gave him those documents at the time he left but rather they were sent to an agent in Dunkirk. This constituted a major retelling of the story.
81. According to his account in his witness statement he fell asleep during the car journey from the border with Turkey and Iran to Istanbul. His evidence was that the car did not stop so that food or petrol could be bought. I was asked to take judicial notice of the distance from the Iranian border to Istanbul, submitted to be about 2,500 kilometres.
82. The applicant's account of his time in Italy was vague, it was submitted. According to the applicant the train journey from Italy to Paris involved one train and took less than a day.
83. The applicant's evidence was that he no longer had an agent after he left Turkey for Italy. He had something to eat with the others he was with and then followed them to Paris, then went with them to Dunkirk. It seems that he had no idea where he was going and no idea about claiming asylum.
84. His evidence was that he was met in Dunkirk by the agent who had the folder of documents from his uncle in Iran. His account was that he had had no contact with his family before then on his journey. The question arises as to how the agent became involved here. There could be no question of anything having been fed back from any other agent, on the applicant's account. In addition, how did his uncle get the documents to the agent? This aspect of his account is not credible, it was submitted, and is an example of the applicant changing his evidence at the hearing.
85. The applicant's account in his witness statement of how he knew the month that he left Iran, with reference to his boss telling him how much money he had brought in from smuggling, is the sort of detail that could

be genuine. However, the applicant says now that this is incorrect and that he worked out the month when he got to the UK, stating that because he got to the UK in September he must have left Iran in July, the seventh month. If that is so, the applicant must have made up the detail in his witness statement about how he knew it was the seventh month that he left Iran, it was submitted.

86. In the age assessment of 4 November 2021 the applicant said that he left Iran on 23 September 2021. However, that cannot be correct as he was already in the UK by that time.
87. It was submitted that the applicant's account of having given a false name in Italy makes no sense given that the agent could not have thought that he, the agent, would be in danger if the applicant gave his correct name, because the agent was not in Italy but still in Turkey. I asked Mr Swirsky to consider the possibility that it may be that the agent simply wanted to ensure that the applicant successfully arrived at his destination because that would suit the agent's purposes. Mr Swirsky submitted, however, that seen in the context of a case where the applicant's account has changed, this is a matter that adversely affects his credibility.
88. In relation to the assigned date of birth of 12 January 1996, Mr Swirsky submitted that the most likely source for that date of birth is the applicant. It is a different date of birth from that which he is claiming now. Some support for that suggestion, it was submitted, comes from the initial contact and asylum registration questionnaire where at question 1.2 the applicant's date of birth is given as 12 January 1996. In answer to question 1.3 the applicant refers to having given his brother's name with the slight alteration of the surname and a date of birth of 15 January 2004, being a date of birth he had previously used. That is not the date of birth he now claims.
89. In the second initial contact and asylum registration questionnaire, which was completed on 17 March 2022, there is no explanation for the dates of birth given in answer to question 1.2, namely 12 January 1996, as well as 15 April 2004 and 13 April 2004, being dates of birth attributed to the applicant. They must all have come from him. He was asked in the next question whether he had used other names and dates of birth. There are a series of names with slightly different spellings of his name and different dates of birth. These must show that these are dates of birth that the applicant has used at some point. There would be no need for any border official to write all these details unless the applicant had given that information.
90. More generally, it was submitted that the applicant's evidence was vague and evasive if asked about something that he was not expecting or had not rehearsed. What he did say was that he thought being younger, or a child, would improve his prospects of being granted asylum, which is one of the reasons he was devastated when he was told that he was regarded as an adult. He also quite openly said he wanted

education and work and the possibility of sending money to his family.

91. It was also relevant that the applicant rejected the offer of additional support, as suggested by the personal advisor. This shows that the applicant can look after himself as an adult and therefore did not want a social worker or personal assistant involved in his life.
92. The age assessment found that he was an adult. It was conducted by experienced social workers. It may be that one needs to be careful about deciding on physical appearance, but this could not simply be ignored, it was submitted. The authorities support that position. Sometimes certain safeguards, such as an appropriate adult, are needed, but not in all cases.
93. I was referred to the decisions in *R (on the application of HAM) v London Borough of Brent* [2022] EWHC 1924 (Admin) and *R (on the application of MA & HT) v Secretary of State for the Home Department* [2022] EWHC 98 (Admin).
94. The age assessment in this case has been called a short-form assessment. Swift J in *HAM* said that there was no such thing and that age assessments should all involve a fair assessment. Whatever one calls the age assessment in this case, it was an age assessment that was written up, with an interpreter present. Although there was no appropriate adult there was no need for one. The applicant was perfectly capable of taking part in the process. There was no 'minded to' process but this is not a case where the applicant was found to be dishonest and whereby those points needed to be put to him. In fact, although there was no formal minded to process, something akin to it did take place in that the social workers put to him their preliminary findings as to his age. He had the opportunity to respond to that.
95. In this case a view was taken based on the applicant's appearance and demeanour and no further enquiry was required.
96. In any event, none of that particularly matters in this case. The Tribunal is entitled to give considerable weight to the views of the social workers when taken together with examples of the applicant's dishonesty in his evidence. It can safely be concluded that he is not a child and has not been one since he arrived in the UK.
97. Ms Patyna relied on her written submissions. She submitted that the age assessment and its unlawfulness did need to be considered given that this was the first opportunity for the applicant to explain his situation, for example in terms of his date of birth, his knowledge of the calendar and numeracy. Even if the age assessment is not unlawful it is, in the alternative, unreliable.
98. It was accepted that there is a difference of opinion in the High Court as to the minimum standards of fairness. I was again referred to *MA & HT*. It was submitted that in that case it was indicated what the minimum standards of fairness are. These include a 'minded to' process and an

appropriate adult. Even if the *HAM* and *SB* approach is to be adopted (*R (on the application of SB) v Royal Borough of Kensington & Chelsea* [2022] EWHC 308 (Admin)), the applicant was not afforded the opportunity to consider a provisional decision as to his age, and there was no appropriate adult.

99. As can be seen from the conclusion of the age assessment that took place on 4 November 2021, it was not only the applicant's demeanour and appearance which led to the conclusion as to age but what he told them about his knowledge of dates, and timescales. Those matters should have been put to him but were not. Furthermore, it was submitted, it is not enough that the social workers simply told the applicant what their decision was, without telling him their reasons or informing him that the decision was provisional only, and that he had an opportunity to address those reasons.
100. The witness statements of the social workers are very similar and do not explain why there was no 'minded to' process. Here, a lack of an appropriate adult compounds the unfairness of the process. The applicant's unchallenged evidence was that he thought the process was to correct his age. It appears to have been accepted by the respondent at the hearing that the applicant comes from a rural background and lacks education. That is a case which required an appropriate adult.
101. There is no evidence from either social worker as to why the process was a curtailed process in his case. It seems from the witness statements that a short-form of age assessment is conducted by the respondent in all cases, but there was no explanation as to why that was deemed to be fair in his case.
102. I was referred to paragraph 14 of the written closing submissions in terms of issues arising concerning appearance and demeanour, and a lack of documents.
103. It was submitted that it is significant that the applicant was visibly upset when told of the conclusion of the age assessment. Again, this indicated that there was a need for an appropriate adult. It was also significant that the social workers overstated what the applicant had said about his journey to the UK. He had explained that his journey was guided and supported by adults and the social care records indicate that the applicant's self-care skills are limited.
104. Furthermore, the applicant's limited education, cultural and socio-economic background are important in the assessment of what he was able to recall of his witness statement and what he had said. His evidence was that he had some knowledge of dates and numbers, as explained in his evidence by the numbers on a clock and basic calculations from working in the shop, and the pay from his boss when he was working as a kolbar. This was not a case of someone who claimed to know nothing at all about dates and then suddenly knows and remembers his date of birth. Because of his acquired knowledge since

arriving in the UK he is now able to give a more detailed consideration to that issue than before.

105. Ms Patyna referred to *R (on the application of MVN) v London Borough of Greenwich* [2015] EWHC 1942 (Admin) and the Association of Directors of Children Services (“ACDS”) Guidance. A perfect chronology is not to be expected, it was submitted. Even if there are inconsistencies in an account, that does not mean that it is not true.
106. It is also important to bear in mind the applicant’s evidence about the use of agents and his being influenced or guided by adults and other Kurdish Sorani speakers. In this context it is credible that the applicant would have given the name of his brother. Furthermore, it appears that he himself volunteered the information about having previously given his brother’s name, and he explained why he did that with reference to what he was he was told by the agent.
107. Ms Patyna accepted that, in line with *MVN*, it was permissible to look at credibility in the round but the focus should remain on how a person knows their age. Peripheral matters cannot eclipse that primary focus. Many of the submissions made today on behalf of the respondent were on peripheral points, it was argued.
108. If the applicant’s account is credible, he would not have a direct knowledge of why certain decisions were made, for example in terms of his leaving Iran.
109. Nothing turns on the length of his journey to the UK. He gave an account of travel through Turkey. There is no evidence of the length of the journey to Istanbul. The applicant does not remember the car stopping but that is not significant.
110. It was submitted that it is plausible that he did not remain in Italy and that others in the group remained in contact with other people. It was submitted that I could take judicial notice of the fact that agents are linked to others and that thus his uncle was able to get in touch with an agent in France.
111. It was accepted that the applicant’s evidence in relation to the folder of documents was different in oral evidence from that in his witness statement. However, the applicant never said that his ID card was the reason he knew his age. Any inconsistency in his account in this respect is not relevant to credibility in relation to his age.
112. It was submitted that there was nothing damaging in the applicant having claimed asylum when he arrived in the UK, in the light of his account about what he was told about his last destination.
113. His evidence about leaving Iran in the seventh month, as given in his witness statement, was corrected in his second witness statement at paragraph 8. His evidence is given in terms of his current knowledge of the two calendars. Leaving Iran in the seventh month (July) is consistent

with his account of his journey and his arrival in the UK on 17 September. He said he knew the month of his leaving by the numbers of the months. The misunderstanding must have arisen in terms of his account in his witness statement of what he was told by his boss, in circumstances where the applicant was trying to understand the dates.

114. Although it says in the age assessment that the applicant said that he left Iran on 23 September 2021, that cannot be correct because he was in the UK at that time. It is unclear who provided the dates in the Gregorian or Iranian calendars and how it was converted to 01/Mehr. Although this date is given in quotes in the age assessment, that clearly cannot be the applicant speaking.
115. I was referred to paragraph 27 of the closing submissions in terms of how any confusion in relation to dates may have arisen. There is no record of anyone exploring with the applicant any confusion about the dates and calendars. One does know that at least in one of the interviews an interpreter was used remotely. There is no transcript of the questions and answers.
116. The list of names and dates of birth given in answer to question 1.3 of the initial contact and asylum registration questionnaire dated 17 March 2022 clearly cannot be detail given by the applicant and is more likely to be a cut and paste of the Home Office document that appears at page 218 of the bundle (an extract from the case information database: "CID", notes).
117. The date given on the CID case record sheet (page 206) appears to be amalgam of the Iranian and Gregorian calendars and the applicant addresses this in his second witness statement at paragraphs 18 and 19.
118. The applicant has also explained why he did not accept the extra support that was offered. Indeed, this was a social worker's assessment of what support he needed and supports his case in terms of his age. Furthermore, if he was not telling the truth about his age, he would have been likely to accept that extra support in order to maintain the false account of his age.

ASSESSMENT AND CONCLUSIONS

119. In coming to my judgment as to the applicant's age, I bear in mind that there is no burden of proof on either party and the tribunal must decide the matter of age on a balance of probabilities (*R on the application of CJ v Cardiff City Council* [2011] EWCA Civ 1590). The role of the court or tribunal is inquisitorial.
120. In *R (on the application of B) v London Borough of Merton* [2003] EWHC 1689 (Admin) the following was said at paragraph 20:

"In a case such as the present, the applicant does not produce any reliable documentary evidence of his date of birth or age. In such circumstances, the determination of

the age of the applicant will depend on the history he gives, on his physical appearance and on his behaviour.”

121. Then, at paragraph 28 Stanley Burnton J, as he then was, said that:

“Given the impossibility of any decision maker being able to make an objectively verifiable determination of the age of an applicant who may be in the age range of, say, 16 to 20, it is necessary to take a history from him or her with a view to determining whether it is true. A history that is accepted as true and is consistent with an age below 18 will enable the decision maker in such a case to decide that the applicant is a child. Conversely, however, an untrue history, while relevant, is not necessarily indicative of a lie as to the age of the applicant. Lies may be told for reasons unconnected with the applicant’s case as to his age, for example to avoid his return to his country of origin. Furthermore, physical appearance and behaviour cannot be isolated from the question of the veracity of the applicant: appearance, behaviour and the credibility of his account are all matters that reflect on each other.”

122. I should also refer to paragraph 37 where he said that:

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

123. In *HAM*, to which I was referred, Swift J said the following:

“21. I have considered these two matters at some length simply to emphasise that in every case when deciding whether an age assessment has been conducted consistent with the requirements of fairness, there is no substitute for testing the matter against the basic principle, by reference to the circumstances of the case under consideration, and by reference to whether the decision rested on reasonable investigation and whether that investigation was undertaken fairly. In practice, this latter requirement is likely to focus on whether any interview with the person was conducted to permit him properly to contribute, and properly to respond to matters going to his credibility

which the local authority considers weigh against his contention to be a child.”

124. At paragraph 24 it was emphasised that whilst *Merton* identified relevant operating principles, it did not establish a checklist and that the issue is one of fairness in the assessment. At paragraph 34, quoting from *R (on the application of SB) v Royal Borough of Kensington and Chelsea* [2022] EWHC 308 (Admin), a decision to which I was also referred, Swift J said that local authorities should not be “hobbled” by the courts taking a highly technical approach, demanding that every box is ticked, but should instead allow practical and flexible procedures to be deployed.

125. At paragraphs 45 and 46 there is the following:

“45. The next submission is that the interviews with the Claimant on 28 July and 4 August 2021 were conducted unfairly because the Claimant was not given the opportunity to have an appropriate adult present. I have already said that I do not consider the case law to date supports the conclusion that fairness requires and appropriate adult be present at every age assessment interview (see above at paragraph 20). What is required depends on the circumstances of the case. The ADCS guidance includes the following passages on the role of an appropriate adult:

‘The appropriate adult must be independent of the local authority, have the relevant skills and training to undertake their role, and be experienced in working with children and young people. They need to be clear and confident about their role, have the skills to support the child or young person in the interview(s) and challenge social workers if they feel the interview is not being conducted appropriately. An appropriate adult should advocate on behalf of the child or young person, represent their best interests and ensure that the child or young person’s welfare needs are met during the interview process.

...

Their role is to ensure the child or young person understands the questions posed to them, and that the accessing social workers conduct the age assessment in a child-friendly, clear and transparent manner. The appropriate adult may also support a child or young person to clarify questions posed by social workers, but cannot coach or answer questions on behalf of the child or young person’.

46. A court’s decision on whether fairness requires an appropriate adult to be present must take account of any relevant

observations made by the social workers conducting the interview. In this case the information at Section 7 of the standard assessment document records that the Claimant spoke confidently and was 'able to advocate for himself', and notes that the Claimant's insistence on a need for a Sudanese Arabic interpreter was also evidence of his maturity and ability to speak up for himself. In these circumstances I consider that the interviews conducted were not unfair for want of an appropriate adult. This Claimant was able to understand questions put and, when necessary, to ensure his point of view was expressed and understood. For these reasons, on the facts of this case, this ground of challenge also fails."

126. On the other hand, at paragraphs 109 of *MA & HT*, Henshaw J said that:

"...In particular, the requirements set out in the case law (and the SSHD's pre-existing policies) for an appropriate adult to be present, and for a 'minded to' (or 'provisional decision') opportunity, exist because they are necessary elements of a fair and appropriate process (containing appropriate safeguards) designed to assess a person's age in the absence of documentary records and given the fragility of reliance on appearance and demeanour save in obvious cases. In my view, those features are equally necessary in order to make a reliable assessment of age at the initial stage (and even applying a 'clearly an adult' standard) of an individual whose appearance and demeanour do not already indicate that he/she is obviously an adult. That is all the more so in circumstances where the individual in question has only in the last 24 hours reached the end of a usually long and arduous journey, which is bound to impact on his/her ability to respond cogently to questioning about details of his family history, education, journey to the UK and life narrative, at least without the assistance of an appropriate adult and a careful 'minded to' process. The risk of adverse inferences wrongly being drawn from incorrect or incomplete answers given due to fatigue and/or misunderstanding in such circumstances is obvious."

127. At paragraph 111 he said that:

" I do not rule out the possibility of conducting a lawful initial age assessment, in a non-obvious case - i.e. where individual's physical appearance and demeanour do not indicate that he/she is obviously over 18 - directly after the individual arrives in the UK. However, in my view it is inconsistent with the principles set out in the case law, including the need to conduct a fair and careful assessment, to seek to assess age in a non-obvious case

(in the sense I have just indicated) in circumstances where an individual who has just arrived at the UK and been detained (i) does not have the support of an appropriate adult and (ii) is not given a ‘minded to’ opportunity.”

128. Ms Patyna’s written submissions argue that the Court of Appeal in *MA & HT* ([2022] EWCA Civ 1663) did not disturb Henshaw J’s conclusions in relation to minimum standards of fairness. At paragraph 40 the Court said that:

“This appeal is *not* concerned with whether the Judge’s view properly reflects the legal principles in *Merton* as developed in subsequent case law. It became clear in the course of legal argument that there is a divergence of views among first instance judges to whether there are essential ingredients of the process which must be present in order for *any* age assessment to be fair, and if so, what they are; or whether it is a fact-specific question in any given case whether the process adopted was fair and based on a sufficient enquiry. The difference is illustrated by the approach taken by the Judge in this case, at [109] and [111]-[112], on the one hand, and Swift J’s approach based upon his analysis of the relevant principles going back to *Merton* itself in *R(HAM) v London Borough of Brent* [2022] EWHC 1924 (Admin), on the other. That difference may require resolution by a higher court, in due course, but this is not the case in which to do so. The appeal has proceeded upon an assumption that the Judge was right; nothing in this judgment is to be understood as expressing a view as to whether he was.”

129. The submissions and arguments to which I have referred set out the parties’ positions in relation to the lawfulness of the process by which the respondent came to the view as to the applicant’s age. As is apparent from those arguments and the cases to which I was referred, the need for an appropriate adult and the need for a ‘minded to’ process for a lawful assessment of age by a local authority is a matter upon which there is a divergence of view.

130. It is not necessary for me to resolve that dispute in this judgment because my task is to assess the applicant’s age on the basis of the evidence overall. What are said to be the deficiencies in the age assessment reflect the weight to be attached to that aspect of the evidence.

131. This is a case in which there is no documentary evidence of the applicant’s age. Necessarily, therefore, his account of events and circumstances is significant in informing my judgment, taken together with all the other surrounding evidence whether directly relating to his age or otherwise. However, it is not necessary to resolve every issue of fact or credibility advanced by the parties.

132. The applicant's account of his family circumstances, his upbringing and his relative lack of education, about which he has been mostly consistent, are matters to be taken into account when considering his credibility generally. They are also relevant in terms of whether the applicant ought to have had an appropriate adult during the age assessment and whether there ought to have been a 'minded to' process.
133. It was submitted by Ms Patyna that the witness statements of the social workers who conducted the age assessment are lacking in detail as to why a so-called 'short-form' assessment was undertaken. I have considered that submission, together with the witness statement of Peter Tucker, the team leader. The evidence from the witness statements indicates that the social workers considered that the applicant was significantly over the age of 18, hence the decision to undertake a short-form assessment. A justification was, therefore, given, albeit that further detail could have been provided in the witness statements (as distinct from the age assessment interview itself) in terms of why it was thought that the applicant was significantly over the age of 18 and thus justifying the short-form age assessment. I also note that from the evidence of the social worker Rachelle Doe, the only age assessments undertaken by that department is the short-form age assessment. This is not entirely consistent with the evidence of Mohammed Adam or Peter Tucker.
134. In the light of the above observations, it seems to me that it would have been preferable in the case of this applicant for there to have been an appropriate adult present during the age assessment that took place on 4 November 2021.
135. Having said that, it must also be borne in mind that the assessment was undertaken by two social workers experienced in dealing with children and young persons. Some regard must be had to that fact when considering the evidence of the age assessment which resulted in a combined view of the two social workers as to age.
136. In addition, I bear in mind what is said in the age assessment about the applicant having adopted an "adult mannerism" during the process, and what was said about his demeanour and appearance, which is relevant to the extent to which it could be said that the assessment may have been adversely affected because of the absence of an appropriate adult.
137. There is some merit in what is said on behalf of the applicant in terms of a lack of a 'minded to' process. It is reasonably clear that the conclusion of those undertaking the age assessment was not simply arrived at on the basis of the applicant's appearance and demeanour. There were other matters that were taken into account.
138. A proper 'minded to' process would also have involved informing the applicant that the view as to his age was a provisional one only.
139. Having said all that, the applicant was informed of the views of the social workers and he was given the opportunity to respond, which he did. His

reaction of upset is a matter that is relied on on his behalf and I take it into account.

140. Moving on from the age assessment itself, I exercise some caution when considering the evidence of dates, given the potential for error or confusion when dates must be converted from the Gregorian to the Iranian calendar.
141. It was submitted on behalf of the respondent that in the second initial contact and asylum registration questionnaire, which was completed on 17 March 2022, the various dates of birth (there appear to be four variations), must all have come from the applicant, in answer to the question of whether he had used other names and dates of birth. There are also a series of names with slightly different spellings. It was suggested that these must show that these are dates of birth that the applicant has used at some point and that there would be no need for any border official to write all these details unless the applicant had given that information.
142. However, I do not consider that it can necessarily be said that this was evidence of inconsistency in the applicant's account given the caution that I consider needs to be exercised in relation to converting dates, and in relation to names the possibility that these may simply have been recorded differently by those taking the details. Quite apart from that, it hardly seems likely that in answer to the question about whether he had given other names or dates of birth the applicant would offer the nine names with various differences in spelling and dates of birth. The applicant does, however, accept that he gave his brother's name when in Italy.
143. Further in relation to this aspect of the evidence, there appears to be some merit in the submission made on behalf of the applicant that these details may simply be a cut and paste of the Home Office document that appears at page 218 of the bundle, being an extract from the CID notes.
144. Although the applicant said in the age assessment interview of 4 November 2021 that he left Iran on 23 September 2021, that plainly cannot be correct as he arrived in the UK on 17 September 2021, which is in fact what he said later in the same interview; a matter that is not contested. This is a further illustration of the difficulty that can arise when different calendars are used.
145. In relation to the credibility of the applicant's account of his journey by car from the border with Turkey and Iran to Istanbul, I was invited on behalf of the respondent to take judicial notice of the distance from the Iranian border to Istanbul as being about 2,500 kilometres. This was in the context of the applicant's evidence that the car did not stop so that food or petrol could be bought, being implicitly an aspect of his account that was not credible. The applicant's evidence was that he was asleep during the journey. However, I do not consider that judicial notice can be taken of that distance. That is a matter for evidence, in relation to which

none was put before me, rather than judicial notice, which has a much more limited scope.

146. There are, however, significant credibility issues that arise in relation to the applicant's evidence, starting with his account of how he knows his date of birth. In his first witness statement he said that he knows his date of birth because his mother told him every year on the day that he was born. She would hug him and tell him he was born on the same day. She did the same with his sister. In oral evidence initially he confirmed that he knew the year of his birthday but not the month or the day, and that his mother told him the year but not the month or day. Later in cross-examination his evidence was that his mother told him on one occasion the year, the month and the day when he was 13 or 14 years of age and that after that she only told him the year.
147. The inconsistency in his account, therefore, is whether his mother told him only the year that he was born, or the year and also the day and month. In other contexts this may not be a significant inconsistency but it is so given that the applicant's date of birth is the central issue in these proceedings. In addition, the applicant's evidence was that his mother only told him the day and the month he was born when he was 13 or 14 years old and that he remembered it from that time, thereafter only having been told the year. His account of how he knows his precise date of birth depends, therefore, on his remembering it from when he was aged 13 or 14 years.
148. There is a significant and fundamental inconsistency in the applicant's account of why he had to leave Iran in the first place. In his first witness statement he said that there was a telephone call to him from his father when he was at his uncle's house. His father said that his name had been given to the authorities by his cousin Mohammed, who had been captured. His father arranged for him to go to Turkey from his uncle's house. This is the same as the account given in the age assessment of 4 November 2021. The applicant's oral evidence, however, was that he had not gone to his uncle's house but was at his own house (his father's) when he received the call. He said that what was in his witness statement in this respect was incorrect. It is not, however, a matter that is corrected or clarified in his second witness statement, although there are clarifications and corrections in relation to various other matters.
149. The applicant at first said in oral evidence that the KDPI letter, which was the source of the problem with the authorities, and which the applicant was told by his cousin to look after, was in fact delivered by him and his cousin. Later in cross-examination he said that it was not delivered. He said that that day Mohammed had work and Mohammed said to him that as he was going home he was to take the letter with him, and he did not deliver the letter. The letter was at home. Again, this is not a matter that the applicant sought to clarify in his second witness statement.
150. I regard this inconsistency in the applicant's account in relation to

whether he was at his own home or his uncle's and what happened to the KDPI letter as significant in terms of his credibility, given that these matters concern the very reason the applicant gives for having left his home country and his family.

151. The applicant's account in his witness statement of how he knew the month that he left Iran was that his boss would tell him how much money he had brought in from smuggling at the end of each month. He states that he left shortly after he had told him how much money he had brought in at the end of the sixth month, which is how he knows he left in the seventh month.
152. However, the applicant said in evidence that this is incorrect and that he actually worked out the month that he left when he got to the UK, stating that because he got to the UK in September he must have left Iran in July, the seventh month. In his second witness statement he states that what he said in his first witness statement about this was incorrect; that his boss did not pay him monthly or regularly. This was also the effect of his oral evidence.
153. The point made about this on behalf of the respondent seems to me to be a valid one, namely that this detail in the first witness statement about how he knew the month that he left Iran is likely to have been something that the applicant made up. The detail in the first witness statement does not realistically admit of an alternative explanation.
154. I bear in mind, however, that even if the applicant could be said to have made up this aspect of his account, or indeed any other, it does not of itself mean that his evidence overall is not to be believed.
155. The applicant's account of his journey to the UK was also inconsistent in a significant way. In his first witness statement he said that he left Iran by van and that his uncle gave him some documents in a folder and told him to keep them safe and show them to the authorities in a safe country to prove his identity. He stated that he does not remember specifically seeing his shenasnameh (ID card) although he is sure it would have been there. In oral evidence, however, he said that it was not his uncle that gave him those documents at the time he left Iran but they were sent to an agent in Dunkirk.
156. Contrary to his witness statement he said in evidence that the documents were sent to him, not given to him. They were given to the agent in France. He said that he does not know how those documents got to the agent in France but they were sent to the agent. Although in his witness statement he said that he had looked at the documents (when his uncle gave them to him), in oral evidence he said that he never looked at the documents and does not know what they were.
157. Apart from the obvious inconsistency in the applicant's account in this respect, it is difficult to see how an agent could have been provided with the applicant's documents in France given the applicant's oral evidence that he had had no contact with his family before he got to Dunkirk and

he just followed the other people he was with when he was in Europe. His evidence was that he never intended to go to Dunkirk. He agreed with the suggestion put to him in cross-examination that it was very fortunate that the agent was able to find him in France.

158. Ms Patyna invited me to take judicial notice of the fact that agents are linked to others in terms of how the applicant's uncle was able to get in touch with an agent in France. This again, is not a matter about which I can take judicial notice. As a matter of common sense it may well be that a people smuggling operation has several links in the chain. However, the applicant's account in this respect was simply inconsistent. It was also inherently incredible on the basis of the applicant's own account that he had no contact with his family before getting to France and was simply following others. There is no evidential basis from which to conclude that any agent connected to his uncle, or his uncle, would have known that he was in France, much less that such an agent would have been provided with documents whilst the applicant was there. Furthermore, the applicant's evidence was that his last contact with the agent was in Turkey.
159. The parties suggested that the fact that the applicant rejected the offer of additional social work support is a matter in favour of their respective cases. However, I regard this as a neutral matter. The rejection of that additional support could indicate someone who is older than the applicant claims to be, on the basis that because they are older they do not need that additional support. On behalf of the applicant, however, the point is made that if the applicant wanted to create a false narrative as to his age he would have been more likely to agree to that additional support.
160. Now reflecting on the evidence overall, I am not satisfied that the applicant has given a credible account of his age. His account suffers from the significant inconsistencies to which I have referred, as well as being inherently incredible in relation to how he remembers his date of birth and the account of the agent finding him in France and providing him with documents. These matters overall undermine the applicant's credibility.
161. In addition, I do attach some weight to the age assessment, conducted as it was by professional and experienced social workers.
162. I find that the applicant's likely date of birth is 12 January 1996 as assessed by the respondent. I reject the applicant's assertion that his date of birth is 13 April 2004. There is no evidential basis from which to conclude that a date of birth other than those proposed by the parties, respectively, should be found. ~~~~0~~~~