



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

JR-2023-LON-
001583

In the matter of an application for Judicial Review

The King on the application of

BR
(Anonymity Order made)

Applicant

versus

LIVERPOOL CITY COUNCIL

Respondent

ORDER

BEFORE Upper Tribunal Judge Kebede

HAVING considered all documents lodged and having heard from Mr V Jagadesham of counsel, instructed by Greater Manchester Immigration Aid Unit (GMIAU) and from Mr A Campbell of counsel, instructed by Liverpool City Council, for the respondent at a fact-finding hearing on 13 and 14 March 2024

IT IS ORDERED AND DECLARED THAT:

- (1) The application for judicial review is refused for the reasons in the attached judgment.
- (2) The applicant was born on 14 March 2000 and is currently 24 years of age

Permission to appeal to the Court of Appeal

- (3) Permission to appeal to the Court of Appeal is refused on the basis that there is no arguable error of law in the decision.
- (4) The grounds are essentially a disagreement with the weight the Tribunal accorded to the Brief Enquiry and the social workers' handwritten notes, whereas the weight to be given to the evidence was a matter for the Tribunal. It is unarguable that the Tribunal did not exercise reasonable caution when considering the answers given at the interview and it is clear that the Tribunal took full account of the applicant's mental health issues and vulnerability as confirmed in the report of Ms Lewis when doing so.
- (5) At [69], the Tribunal carefully considered the applicant's recorded evidence about his sister's age and the fact that he denied having given that age, and noted that the Brief Enquiry Form confirmed that the discrepancy in that regard was specifically put to him in the 'Minded to Session'. The Tribunal was accordingly unarguably entitled to conclude that the applicant had been given an opportunity to clarify his

evidence at that point and to take account of his failure to state that there had been an error in the recording of his evidence at that time. The fact that the Brief Enquiry relied upon additional reasons not specifically recorded as having been put to the applicant in the Minded to Session, such as the implausibility of his account of his journey to Liverpool, does not arguably undermine the weight to be given to the report as a whole or the conclusions reached by the social workers in that and other respects. The Tribunal, in addition, was fully aware that the social workers had not given evidence at the hearing but was nevertheless unarguably entitled to give weight to the handwritten notes provided in addition to the written report and to prefer their written account over the applicant's oral evidence which, for reasons fully and cogently given, had not been found to be reliable.

Interim Relief

- (6) Paragraph 2 of the order of Upper Tribunal Judge Plimmer dated 2 December 2022, which required the respondent to provide accommodation and support to BR under section 20 of the Children Act 1989 until final determination of these proceedings, is discharged.

Costs

- (7) The judicial review claim having been dismissed, the applicant shall pay the respondent's reasonable costs, to be subject to detailed assessment if not agreed. The applicant being a person subject to costs protection under s.26 of the Legal Aid Sentencing and Punishment of Offenders Act 2012, such order shall not be enforced without an application by the respondent for a determination of the amount of the applicant's liability to pay such costs, if any.
- (8) There shall in any event be detailed assessment of the applicant's publicly funded costs.

Signed: S Kebede

Upper Tribunal Judge Kebede

Dated: **3 April 2024**

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): **03/04/2024**

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-2023-LON-001583

IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

Phoenix House
Thornbury
Bradford BD3 7BH

3 April 2024

Before:

UPPER TRIBUNAL JUDGE KEBEDE

Between:

THE KING
on the application of

BR
(Anonymity Order made)

- and -

LIVERPOOL CITY COUNCIL

Applicant

Respondent

Mr V Jagadeshram of Counsel, instructed by Greater Manchester Immigration Aid Unit (GMIAU), for the applicant

Mr A Campbell of Counsel, instructed by Liverpool City Council, for the respondent

Hearing date: 13 & 14 March 2024

J U D G M E N T

Judge Kebede:

1. The applicant, a national of Iran, asserts that he was born on 14 March 2005 and was thus a child of 17 years of age when he entered the UK on 7 August 2022. Following an age assessment completed on 13 September 2022 the respondent, Liverpool City Council (“Liverpool CC”), produced an age assessment report (Age Brief Enquiry Form) dated 13 September 2022 in which a date of birth was assigned to the applicant of 14 March 1996, making him 27 years of age at the time of the hearing (turning 28 on the second day of the hearing) rather than his claimed age of 18 years (turning 19).
2. The applicant challenges that age assessment by way of this judicial review claim, on the ground that the age assessment decision was wrong as a matter of precedent fact.

BACKGROUND

3. The applicant claims as follows. His date of birth is 14 March 2005 and he knows his date of birth from his father who told him the date in the Iranian and Gregorian calendars. He does not have documentary proof of his age with him in the UK, although he had a national ID card in Iran which he had left in his family home and which he assumes was taken by the police when they raided his house and took his personal belongings after he had left. He was born and raised in a small village in Iran called Kani Dinar. He had one sibling, an older sister aged 25, but she had left the family home before he fled Iran as she was older and married and lived in her own home. The applicant claims that he did not attend school, but he can read and write in Kurdish because a volunteer teacher came to his village to teach the children in the village. From January 2022 he started to work in his grandfather’s shop selling dried goods as his grandfather had become unwell. He had helped out a friend whilst working in his grandfather’s shop by allowing him to hide political posters, pictures, letters and papers, but one night his friend did not turn up as expected and he (the applicant) subsequently heard shooting. He did not know if his friend was killed or injured. He told his father what had been happening. His father slapped him around the face and told him he would have to hide now because if he was to be caught by the authorities he would be killed or imprisoned. He was taken to his brother in law’s house and from there he was put into someone else’s hands to leave Iran. He left Iran on 15 July 2022 and never returned to his family home. He has no contact with anyone in Iran.
4. The applicant arrived in the UK on 7 August 2022 and applied for asylum. He gave his date of birth as 14 March 2005 but was deemed to be an adult with a date of birth of 14 March 1996 on the basis of an assessment by the Home Office. He was detained and had a screening interview with Midlands Intake Unit the same day and was then sent to accommodation in London, as an adult. He stayed in the hotel for a month, during which time he requested help on the basis of the incorrect recording of his age, claiming to feel unsafe at the hotel since everyone else was older than him. He contacted Migrant Help for assistance but was unable to receive any help. He became friends with another person, S, who was in the same situation as himself and was also age disputed.

5. The applicant claims that a Kurdish person he met outside the hotel saw him and S crying and asked what was wrong. When they told him what had happened and how scared they were and that they did not know where to get help from, the man told them he would help them to go somewhere to get help and he put them on a train and told them to get off at the last stop. The train took them to Liverpool. They were street homeless for a few days. They initially sought help from an organisation called 'Active8' which referred them on to Asylum Link Merseyside. They were assisted by Gareth Hankinson, Operations Manager of Asylum Link Merseyside, who arranged accommodation for one night and put them in touch with the Greater Manchester Immigration Aid Unit (GMIAU) which in turn made a referral to Liverpool City Council. They were then placed in Home Office accommodation at Greenbank Court, which was again adult accommodation.
6. The applicant was visited on 13 September 2022 by two social workers, Edwina Ryall and Cassie Fitzgerald, from Children's Social Care, the Unaccompanied Asylum Seeking Children (UASC)'s Team for Liverpool City Council, who interviewed him using an interpreter on the telephone. The social workers completed an Age Brief Enquiry Form ('Brief Enquiry') the same day in which they concluded that the applicant was an adult of 25+ years and agreed with the view of the immigration officers during the Home Office interview where he was assessed as being 26 years of age, with a date of birth of 14 March 1996.
7. Following requests made by GMIAU the respondent disclosed the Brief Enquiry on 14 October 2022. GMIAU then served a pre-action protocol letter on the respondent, on 20 October 2022, challenging the age assessment, asserting that the local authority had failed to act in accordance with their statutory duties under s17 and s20 Children Act 1989 to safeguard and promote the welfare of children in their area; that the local authority had failed to carry out a lawful assessment of age by carrying out a 'brief enquiry' rather than a full assessment of age, without the presence of an appropriate adult and using an interpreter by telephone, by over relying on physical appearance and demeanour, by taking into account irrelevant factors and failing to take into account relevant factors, and by failing to provide a copy of the decision in writing and information about his right to challenge the same; and that the local authority had failed to act in accordance with the principle of the benefit of the doubt and the best interests of the child. GMIAU subsequently raised concerns about the applicant's mental health and requested a full age assessment be carried out.
8. The respondent replied on 26 October 2022, maintaining the decision and asserting that the short-form assessment was lawful and that the process was fair.
9. On 18 November 2022 the applicant filed a judicial review claim in the Administrative Court challenging the decision of 13 September 2022 that he was an adult and relying upon evidence supportive of his claimed age, namely a letter and statement from Gareth Hankinson, his own evidence and consistent assertion of his date of birth, the response to the social workers' concerns and the fact that they relied upon physical appearance

and demeanour which were notoriously unreliable; as well as factors which reduced the weight to be attached to the age assessment, namely a lack of opportunity to comment on all matters, the absence of an appropriate adult and face to face interpreter, and the social workers' failure to inform him of the full reasons for the decision and his ability to challenge the decision.

10. On 22 November 2022, in the Administrative Court, His Honour Judge Davies ordered that the applicant's application for interim relief be determined at an oral hearing where the respondent be given an opportunity to file evidence and make submissions. The respondent produced a skeleton argument resisting interim relief and the applicant produced a reply to the skeleton argument.
11. In an Order of 5 December 2022, Upper Tribunal Judge Plimmer sitting as a Judge of the High Court, made an anonymity order and granted interim relief in the form of accommodation and support for the applicant until the final determination of the judicial review proceedings or further order.
12. The respondent filed and served an Acknowledgement of Service with summary grounds of defence and the applicant filed a reply.
13. In an Order of 18 May 2023, Margaret Obi sitting as a Deputy High Court Judge granted permission for the applicant to apply for judicial review and ordered that the case be transferred to the Upper Tribunal to determine the applicant's age.
14. The matter was listed for a fact-finding hearing in the Upper Tribunal. Both parties filed and served supporting evidence and skeleton arguments. The parties attended a round table meeting but were unable to settle the proceedings, other than to confirm that the issues were narrowed to the precedent fact issue.
15. The matter then came before me for a fact-finding hearing.

DOCUMENTARY EVIDENCE

16. The parties agreed a consolidated fact-finding hearing bundle of documents divided into sections A to D: tab A comprising legal pleadings and orders; tab B being witness evidence; tab C comprising documentary evidence including the Brief Enquiry and notes and disclosures from Liverpool CC (contact records, referral records, single assessment, closure record and care records), correspondence between GMIAU and Liverpool CC and the applicant's asylum interview transcripts and claim forms; and tab D being expert evidence and medical records, together with a statement from Gareth Hankinson. An agreed authorities bundle was also produced for the hearing.
17. The following is a summary of the main parts of the documentary evidence, although full and detailed consideration has been given to the entirety of the documentary evidence, whether specifically referred to and summarised in this decision or not.

Respondent's Documents

Brief Enquiry from Liverpool Unaccompanied Asylum Seeking Children's (UASC) Team (pages C201 to C208)

18. As mentioned above, the assessment was conducted by Edwina Ryall and Cassie Fitzgerald, social workers employed by Liverpool CC. The outcome of the assessment was that the applicant was an adult and was afforded a minimum age of 26 years old, with an attributed date of birth of 14 March 1996.
19. Under the heading "Physical appearance and presentation observations", the assessors described the applicant's appearance, noting that he presented as approximately 5 foot 10 inches tall with a developed bone structure and broad shoulders, with a defined Adams apple and aged creases across his neck, with a defined beard line across his face and that he stated that he had first started shaving when he was 15 years old or 15 and half years old.
20. The social workers noted, under the heading "Identity", that the applicant stated that he had no ID documents in the UK but had had documentation in Iran. Under the heading "Age" they noted that he had stated his date of birth as 14 March 2005 based on his father having told him that when he was nearly 10 years of age, but was unable to provide any details of the situation in which his father told him his age and said that he had not celebrated birthdays or anniversaries in Iran. The applicant told the age assessors that he had one sister who was 35 years of age and said that she was 13 years older than him, but then changed that to 8 years older, neither of which tallied with his sister being 35. He claimed to have no contact with his family in Iran.
21. Under the heading "Journey Details" the applicant told the social workers that it was 8 months ago, in January 2022, when he was working with his grandfather in his shop and that kolbars would hide documents there and that he was 16 years old and 2 to 3 months at the time. Details were provided of the applicant's account of his journey from Iran, to Turkey, through unnamed countries and then by dinghy to the UK where he received medical treatment from a doctor on the boat, and of his account of the difficulties he encountered about age-appropriate accommodation. Under "Health" it was stated that the applicant had reported no current health issues, and under "School, Education, Training or Employment History" it was reported that he had not attended school in Iran but that a lady would come to the village and teach him Kurdish.
22. Under the heading "Minded To Session" the assessors recorded that the applicant was informed that they were minded not to accept his claimed age for the reasons stated which led them to conclude that his story was not credible, namely inconsistent evidence about not having ID, inconsistencies in his evidence about the age difference to his sister, and his physical appearance. It is recorded that his response was to punch the table and cry without tears and to state that he wanted to study, that he looked older because he had had a rough life in his country and that his brother-in-law had told him that the government had come to his house and

taken all his documents after he had left the country, and that he felt scared in his accommodation.

23. In their Conclusion, the assessors both agreed that the applicant's physical appearance and facial features were not that of a 17 year old but more like an individual of 25+ years old; they noted that there was 6- 7 month space of time from when the incident occurred in the applicant's grandfather's shop until he fled Iran that would have provided him with ample time to gather his ID documents before his journey to the UK; they stated that the applicant's account of having travelled to Liverpool by train which took 2-3 hours contradicted his friend's story about them both travelling to Liverpool by bus which took approximately 5 hours; they considered it unusual that a man who was previously unknown to the applicant and his friend S would pay for their train tickets to Liverpool and not provide any explanation as to why they should travel all the way to Liverpool; and they did not accept the applicant's claimed age because of the evasiveness and lack of information that he had provided as well as his physical demeanour and appearance. They recorded that he was informed of his rights and that he could ask his solicitor about disputing the outcome of the assessment.
24. Both assessors provided details of their qualifications and experience, together with handwritten notes of the assessment.

Applicant's Documents

The Applicant's First Witness Statement dated 10 November 2022 (pages B135 to B159)

25. In his statement of 10 November 2022 the applicant stated that he was born and raised in Kani Dinar and lived there with his mother and father. His sister, F, was 25 years old and was married and lived nearby with her husband. His grandfather had been living with him and his parents since becoming unwell in January 2022. His father looked after cattle and his mother stayed at home. The applicant stated that he knew his date of birth because his father told him when he was around 10 years of age. He had an ID card ('Cart Mili') in Iran but left it behind as he fled without any opportunity to collect his belongings or say goodbye to his family and he had since learned from his brother-in-law that his personal belongings had all been taken when the house was raided. He had never had a passport because he had not done his military service. The applicant explained that he did not attend school but from about 14 years of age was taught by a volunteer teacher who came to the village and taught the children to read and write in Kurdish. The applicant explained about helping his friend hide posters and leaflets in his grandfather's shop and the incident when he heard gunshots, leading to him having to leave his home without saying goodbye to his mother who was asleep at the time, and then fleeing the country. The applicant gave details of his journey to the UK, stating that it was on his way to Turkey that he spoke to his brother-in-law using the driver's phone and was told that the authorities had raided the house. He described what happened to him after arriving in the UK and the issues he had about his age and his accommodation.

26. The applicant then gave details of the age assessment and stated that the assessors had not told him that he was allowed to challenge the decision and they did not give him any paperwork or anything in writing. He said that he went through the age assessment with his solicitor once she had managed to obtain a copy of it and he noticed that there were a lot of mistakes, including the recording of his evidence of his sister's age as 35 which was not what he had said. He explained that the incident leading him to flee the country happened on the same date that he left, 15 July 2022, and the assessors were wrong to say that he waited 7 months before leaving. He did not know why his friend S would have told the assessors that they travelled to Liverpool by bus when they took a train. The applicant explained that he was scared at the accommodation where he had been placed as people were always banging on his window and his room was far from the kitchen. He did not know how to cook. He wanted to be with people of his own age.

The Applicant's Second Witness Statement dated 2 November 2023 (pages B165 to B171)

27. In a statement of 2 November 2023 the applicant stated that his situation had changed since his previous statement, as he was being looked after in supported accommodation in Liverpool and felt much better, although he was still worried about the wrong date of birth being on his documents. He stated that he had been moved into accommodation with Active8 after the court hearing in Manchester which was a two-bedroom flat which he shared with his friend S. They had since been moved to even better accommodation. He was attending college in the Wirral and was settled there and had made friends. He had now learned to cook. His support worker Maxine had helped him and she reminded him of appointments as he kept forgetting because his memory was so bad. He used to have a social worker called Chrissy and she and Maxine helped him with managing his money. He now had a different social worker called Sam. He also saw a lady called Anna from YPAS about his stress and mental health issues and he had a solicitor to help him with his immigration matters. He had not had any contact with his family in Iran. He did not know how he would manage here without all the support he was being given.

The Applicant's Third Witness Statement dated 9 January 2024 (pages B176 to B178)

28. In his statement of 9 January 2024 the applicant stated that he had a birth certificate but had not mentioned that previously as he had never been asked about it. The matter had come up when he was going through his asylum questionnaire with the solicitor dealing with his asylum claim. His birth certificate, called a 'Shenasnameh', was not with him in the UK and he did not know if it was taken by the Iranian authorities when they raided his house in Iran. He had seen his birth certificate in Iran as his father had showed it to him, but he was illiterate at the time and could not read it. His father had told him that he would put his photograph on the birth certificate when he turned 15. He had only seen the birth certificate that one time and that was a different occasion to when his father told him his date of birth. The applicant stated further that he worried that he had memory problems and he would forget things if not prompted.

First Witness Statement of Laura Gibbons, dated 15 November 2022 (pages B160-B162)

29. In her statement dated 15 November 2022, Laura Gibbons explained that she was the solicitor employed by GMIAU with conduct of the applicant's case and that she had been instructed on 4 October 2022 when the applicant was referred for legal advice by the Service Manager and Young People's Advocate at GMIAU. She explained that she had requested a copy of the age assessment a few times and received it by email on 14 October 2022. She stated that the applicant had presented as extremely tired and dazed during their appointments and he had told her that he was not sleeping. She had referred the applicant to a therapeutic service called 'Spinning World' for young people who were seeking asylum or had refugee status but she was not sure if he would be accepted as they provided support to 14-25 year olds whereas he was being treated as a 26 year old. She had also written to the Home Office Asylum Safeguarding Team about her concerns for him in his current accommodation.

Second Witness Statement of Laura Gibbons, dated 2 October 2023 (pages B163-B164)

30. In her statement of 2 October 2023, Laura Gibbons confirmed that she had met with the applicant on 28 September 2023 and carried out a proportionate search of his social media. The applicant had confirmed that he had one Facebook account and no other social media accounts and that the registration date for his Facebook page was 20 October 2022, when he added his date of birth as 14 March 2005. She could not find his location when the account was opened and there were no posts on his timeline other than the entry for his date of birth.

Witness Statement of Nicola Taylor, dated 7 November 2023 (pages B172-B174)

31. In her statement, Ms Taylor explained that she was the English for Speakers of Other Languages (ESOL) Manager at Wirral Metropolitan College. She stated that she had worked within educational establishments since 2008: UK Wirral secondary schools and further education colleges, with age ranges from children aged 11-18 to adults, and in addition was a mum to an eighteen- and nineteen-year-old. She stated that her role within secondary schools was as an ESOL and ALS Specialist Support Teacher, dealing with issues relating to children and their age-related developmental needs, and after leaving secondary education she had become solely an ESOL teacher. She first met the applicant on 9 January 2023 to perform his ESOL language assessment, and he presented as a typical 16-18 young person with a very limited level of English. For the academic year 2023/24 he had moved from pre-entry to Entry Level 2. Ms Taylor stated that as the Manager of ESOL she saw the applicant within the classroom setting whilst she performed learning walk observations around the college. She noted that he interacted with the other 16-18-year-olds in the canteen or during enrichment activities and she considered his interactions to be typical and consistent with a young person aged 16-18. She stated that he was painfully shy but was very respectful and considerate to his classmates and his peers. Ms

Taylor said that the appellant's age dispute concerned her immensely as she felt that his personality was very shy but polite and may be interpreted as vulnerability which then left him open to potential exploitation by adults. She considered that if he were to be placed within an adult class and setting his interactions and vulnerabilities would be very obviously out of place and the safeguarding implications were huge. She did not believe him to be as old as stated by the Home Office/local authority at 27 years old and her observations of him were that his presentation and behaviour was typical of his stated age of 18.

Witness Statement of Gareth Hankinson, dated 15 November 2022 (pages D633-D637)

32. In his statement, Mr Hankinson explained that he was employed by Asylum Link Merseyside as Volunteer and Operations Manager and that he had worked in the refugee sector for 15 years including work with unaccompanied asylum-seeking minors and age disputed minors. He stated that he was in the office on 8 September 2022 when the applicant arrived at the centre with another young person, S, both of whom appeared extremely tired and distressed and in need of urgent support. He used a telephone interpreter to try to get some information from them about what had happened. They explained that they had been in a hotel with adults and were very scared and that they had not been able to get any help and had been sleeping outside for 2 nights. Mr Hankinson said that it is not uncommon for people to travel to Liverpool for help due to its established refugee support network in the area. Mr Hankinson said that the applicant and S were in the centre for hours whilst they awaited a response from Migrant Help and they fell asleep in the staff area. Migrant Help were unable to assist and advised that they go back to their hotel, but they were too scared to go back and he managed to book them into a hotel for the night and organised for GMIAU to take on their case. The Emergency Accommodation Team at the Home Office agreed to admit them into initial accommodation in Liverpool and they had been living there since that time and reported being very scared there as people would knock on their window. Mr Hankinson said that the applicant had not wanted to attend their activities as they were for adults and that there was nothing in the area for young people.
33. Mr Hankinson stated that there was nothing in the applicant's behaviour or presentation that led him to doubt his claimed age and the way he acted was definitely not indicative or consistent with that of a 26-year-old. He had seen the applicant on a regular basis since September 2022 and to him the applicant appeared and acted like a minor. His general distress at the situation, difficulty sleeping and response to the information that he was told, was that of a minor and when observing the applicant and his friend together, they interacted as two scared children. Mr Hankinson said that he strongly believed that the applicant's health and well-being would be greatly improved if he were removed from his current living situation and moved into supported care with others his own age.

Letter dated 6 November 2023 from Anna Collins, Children and Young Person's Psychological Therapist at YPAS (Young Person's Advisory Service) (page D556 to D557).

34. Ms Collins confirmed that the applicant was referred to the YPAS Spinning World psychological service on the 14/11/2022 by Laura Gibbons and that the main concerns at the point of referral were his inability to function on a daily basis and difficulties sleeping. The applicant started therapy sessions on 9 June 2023 and attended 2 sessions with her colleague before being reallocated to her and she had completed 8 sessions with him so far. He presented with low mood and difficulties concentrating and frequently felt tired and had headaches which worsened when he was in crowded places and / or experiencing high levels of noise. Ms Collins stated that the applicant's PHQ-9 score was 15 which indicated moderately severe depression.

Report from Catrin Lewis, Consultant Counselling Psychologist and Deputy Clinical Lead for Adult Therapies, for Central and Northwest London (CNWL) NHS Foundation Trust dated 15 February 2024 (page D564 to D601)

35. Ms Lewis's report was based on a 2 hour, face-to-face assessment of the applicant on 14 January 2024, with the assistance of a Kurdish Sorani interpreter. Ms Lewis said that the applicant scored above the threshold for clinical diagnosis on two of the measures administered: he scored within the moderately severe range on the screening measure for depression, scoring 17 out of 27 using the Patient Health Questionnaire (PHQ-9) and he scored in the severe range on the anxiety scale, Generalised Anxiety Disorder Scale (GAD-7), 20 out of 21, which reflected extensive anxiety symptoms. It was her clinical opinion that he met the diagnostic criteria for a moderately severe Major Depressive Disorder (MDD) with severe co-morbid anxiety. Although he did not meet the diagnostic criteria for a diagnosis of PTSD, Ms Lewis considered that the applicant had been exposed to many traumatic events both en route to the UK (the dinghy sea crossing from France) and post-migration, including the events that precipitated his flight from Iran, leaving his family with no planning and warning, the journey under the control of agents from Iran to the UK and post-migration stressors such as the dispute of his age. Ms Lewis noted that her findings were in line with those of other healthcare professionals who had met the applicant including the assessment provided by his therapist, Anna Collins, at YPAS and his GP records which outlined difficulties with anxiety for which he was prescribed Propranolol in October 2022. She noted that the applicant was not taking that medication as he was anxious about taking pills and, despite asking for medication in liquid form, was not provided with that. Ms Lewis recorded the fact that the applicant reported feeling that the events had, cumulatively, had a significantly negative impact on his mental health and that the meeting with the two social workers who had accused him of lying had had a profound impact on him and his confidence. The applicant also told her that he had developed difficulties with irritability and anger which had caused him problems at college, which she noted were common amongst individuals, particularly young people, who had a MDD and anxiety. Ms Lewis opined that the applicant's trauma related anxiety and MDD symptoms were highly likely to be affecting his ability to recount

events in an internally consistent, chronologically sequenced manner. Ms Lewis considered that the applicant was fit to give oral evidence but that it would be challenging for him and she therefore made some recommendations for special measures and adjustments which should be put in place during the proceedings.

Addendum to report from Catrin Lewis, dated 8 March 2024 (page D611 to D632)

36. In the addendum to her report, Ms Lewis responded to questions put by the respondent. Ms Lewis confirmed that the applicant's reported experience of insomnia and waking up in a panic could be a reaction experienced by an adult or a young person of any age. She considered that his sleep difficulties were directly related to the mental health condition which she believed he was currently experiencing, rather than to distress about any single event alone. She confirmed further that the irritability the applicant described and the difficulties in regulating his emotions could be seen in a person of any age with mental health conditions but she referred to research which highlighted the additional challenges when mental health difficulties occurred in adolescence and noted that irritability was a common feature of adolescence. She accepted that increased irritability and difficulties with self-regulation could be displayed by a young adult between the ages of 18 and 25 as well as a minor. She also accepted that the combination of experiences described by the applicant could cause MDD and comorbid anxiety in a young adult as well as in a minor or someone who was until recently a minor, although she observed that the applicant appeared to have settled into the practicalities of his life in a way that she would not expect to see an older man do.

THE HEARING: ORAL EVIDENCE

37. The applicant was accompanied at the hearing by his support worker, Ms Jenkins. The Tribunal had been requested to treat him as a vulnerable witness, in particular in light of the report from Ms Lewis, and the Presidential guidance was accordingly followed in that respect. The applicant was permitted to enter and view the courtroom before the hearing commenced. There was an initial discussion about special measures and adjustments to ensure that he felt comfortable and at ease. The courtroom was arranged so that I sat on the same level as him. The representatives referred to each other by their first names. Mr Campbell introduced each area of questioning prior to commencing his cross-examination. Regular breaks were taken, approximately every 30 minutes, for at least 10 to 20 minutes each time, and the applicant was made fully aware that he could request further breaks if needed. I was entirely satisfied that every effort was made to ensure that he felt as supported and comfortable as possible in the circumstances.
38. The applicant gave oral evidence before me, followed by his witness Gareth Hankinson. The respondent did not have any live witnesses. The applicant's evidence was given through a Kurdish Sorani interpreter. No concerns were raised at any point about the interpreter and I was satisfied that the applicant and the interpreter fully understood each other and that the evidence was properly and competently interpreted.

Witnesses for the Applicant

The Applicant

39. The applicant confirmed his date of birth as 14 March 2005 and he adopted his recent witness statement as his evidence in chief. He was then cross-examined by Mr Campbell.
40. The applicant said that his father had told him his date of birth when he was around 10 years of age. Mr Campbell asked the applicant to tell him a bit more about that occasion and why his father had told him and how and why it came up in conversation. The applicant replied that his father had only told him his age and that was it. He did not know why his father had decided to tell him at that time and not before and he could not remember whether he had asked his father or his father had just told him. Mr Campbell asked the applicant about his ID card, Cart Mili. He said that he was not sure whether it was at home or not. He spoke to his brother-in-law when he was in Turkey but they did not speak about his documents. He had not spoken to his family in Iran since that time and did not know anything about them. He did not know his address in Kani Dinar and he could not find out what it was, so he could not write to them. When asked why he had previously told Liverpool CC that he did not want to contact his family, the applicant said that that was because he did not want to put their lives at risk since their telephone was being watched by the authorities. The applicant said that his father had shown his ID card to him. He did not know how old he was at that time but he knew that it was after the time his father had told him his date of birth. That was not the only time he saw his ID card as his father showed it to him again after they had attached his photograph to it. He could not remember why he was shown his ID card at that time and he could not recall seeing his date of birth on those 2 occasions. Although he had a mobile telephone in Iran he did not take a photograph of his ID card on his phone.
41. The applicant said that he learnt to read and write Kurdish when a woman came to the village. He said that it was not for a long time and was less than a year because studying Kurdish was not permitted. He agreed that he had said that he was about 14 years when the person came to the village to teach him but he was not sure if the teaching stopped by the time he was 15. It was through his own efforts and self-teaching that he managed to achieve what he did. He could not remember how often the teacher came.
42. When asked how much older than him were the people in the second hotel in London the applicant said that he did not know but they were a lot older. There were other Kurdish speakers but he could not remember how many. When asked about the man who helped him and his friend S when they were outside the hotel, the applicant said that it was that man who had taken them to the train station and put them on a train to Liverpool. He could not remember where the hotel was or which train station the man took them to but he remembered walking to the station. The man paid for their tickets. He did not tell them anything about why he was helping them or what they should do when they arrived in Liverpool, but just told them that it was a better place for them. They did not ask him what they should

do when they got off the train. When asked by Mr Campbell if he was aware that his friend had told Liverpool CC that they travelled to Liverpool by bus the applicant said that S told him that he had told his solicitor that they travelled by train and not by bus and he did not know why it was recorded as it was.

43. Mr Campbell then asked the applicant about the age assessment and referred him to the section of the report where the social workers confirmed that they had told him about his rights and that he could speak to his solicitor if he wanted to challenge the decision. The applicant said that they did not tell him that he could challenge the decision but just told him that he was lying. The applicant said that his sister was 8 years older than him. He had said 13 years initially as the social workers were pressurising him and he was not able to count properly. He then managed to count and said that it was 8 years. When asked why he had guessed the age difference initially, as he claimed in his statement, the applicant said that he was terrified and stressed. He had initially thought the social workers had come to take him out of the hotel. He did not say that his sister was 35. The applicant said that he did not punch the table when the social workers said they did not believe him. The social workers told him that he was lying and then they left the room. It was not true that he followed them out and screamed at one of the social workers forcing them to abandon their car, as they had recorded. What happened was that he spoke to them in Kurdish and said that he needed help. It was not true that he cried without tears. He cried a lot and there were lots of tears. They told him to stop crying.
44. The applicant said that he had started having problems with his memory since coming to the UK. He had always remembered to do what his father asked him to do when he was in Iran. He did not do his own shopping there, or manage his own money or deal with electricity companies, as his father did all of those. It was stressful when the electricity company rang him here as he did not understand the language. The applicant said that he had been 16, nearly 17, when he started working in his grandfather's shop in January 2022 and he had not said that he was 17. When asked if he had a Facebook account he said that he had an account which had been set up by a friend in the UK. The first account the friend set up was deleted as he realised there was a problem with it, and the friend then set up a second account. The applicant said that he had never had any social media accounts in Iran. He said that no-one had told him what to say when he got to the UK or what it would be like here. When asked why he had said in his first interview about his asylum claim that he was told that rights were respected here, the applicant said that he could not remember saying that.
45. Mr Campbell then asked the applicant about his birth certificate which he had mentioned in his third witness statement. He said that he was between 10 and 12 years of age when his father showed it to him but he could not remember why his father showed it to him. He had not mentioned his birth certificate because no one had asked him about it and he just presumed that it would be known that he had a birth certificate as everyone had one in Iran when they were born.
46. Mr Jagadeshm did not seek to re-examine the applicant.

47. I asked the applicant some questions by way of clarification. I asked him what happened to the mobile telephone he had in Iran and he replied that his father confiscated it after the incident and destroyed the Sim card. I asked the applicant if his father had only told him his date of birth on the one occasion when he was about 10 years of age. He said that his father showed him his birth certificate on another occasion as well as when his photograph was attached when he was 15. Mr Campbell asked the applicant whether he was referring to the photograph being attached to his birth certificate or his ID card and he replied that it was his birth certificate. He had seen the birth certificate once without the photograph and once with the photograph attached. He had tried to amend his statement with his solicitor as he noted that it referred to him having been shown his birth certificate only once.

Gareth Hankinson

48. Mr Hankinson then gave his evidence before me, via video link. He adopted his statement as his evidence and was cross-examined by Mr Campbell. He said that he had had interactions with social workers who dealt with UASC's in his previous work, but not in his current job. He had liaised with local authority social workers from 2007 to 2012. He had never had any interactions with the two social workers involved in the applicant's age assessment. When asked if it was his experience that social workers from Liverpool CC behaved angrily when assessing age, as the applicant claimed had happened to him, Mr Hankinson said that he could not comment on the current situation as he had not had any recent interactions with social workers. He was aware that those being age assessed had complained about the social workers and their attitude, but he had not had any experience of that for over 10 years. Mr Hankinson confirmed that he only dealt with asylum seekers who were being treated as adults and that he had only ever seen the applicant interact with his friend S and not with adults or UASCs. When asked if the interaction between the applicant and S could be said of someone their late 20s who were scared, Mr Hankinson said that there were a lot of homeless people who he dealt with but they were not scared in the same way. When asked if the applicant's behaviour, if not that of a 26 year old, could nevertheless be said to be that of someone turning 20 years, Mr Hankinson said that it could be and it was difficult to tell, and that a smaller gap in the different ages would be different, but he could not comment on the present as he had not seen the applicant for a while.
49. That completed the oral evidence.
50. Prior to hearing submissions, there was some discussion about the appellant's claim to have sought to amend his statement with his solicitor in relation to whether he had been shown his birth certificate once or twice. It was agreed that nothing material would arise from this and the matter then proceeded to submissions.

THE HEARING: SUBMISSIONS

51. Both parties had produced skeleton arguments prior to the hearing and both relied on their skeleton arguments.

The Respondent

52. Mr Campbell submitted that the applicant was the age given by the age assessors, but that at the very least he was older than the age claimed. He submitted that the social workers' views on the applicant's physical appearance and demeanour were relevant and could be taken into account. There was a lack of any documentary evidence. The absence of any social media in Iran was striking for a person of the applicant's claimed or assessed age. His story of his Facebook account being deleted made no sense. The statement from Nicola Taylor could not be accorded weight as she was not here to be cross-examined and in any event her observations were vague and lacked clarity and reasoning, and amounted to bald assertions, and she lacked independence. Mr Hankinson's evidence about the applicant's age was limited by the fact that he had not seen him interact with other adults or children except S and his observation about the applicant's and S's presentation was limited by the state they would have been in at the time they met.
53. As for the applicant's own evidence, Mr Campbell submitted that even making allowances on the basis of Ms Lewis's report, there was a lack of information forthcoming from the applicant where it could be expected. The absence of any information from the applicant as to what prompted his father to tell him his date of birth and how he told him about it was striking and came across as a fabricated story. Likewise there was an absence of information about when and how the applicant learned Kurdish. It was not credible that he would not know his own address. He had contradicted himself as to whether anyone had told him about what life would be like in the UK. There was a striking lack of information about the journey to Liverpool and the applicant's account was lacking in credibility and was inconsistent with the account given by S. The applicant's evidence about when he was shown his ID card was vague and suggested the account was fabricated. The late introduction of evidence about a birth certificate also lacked credibility. In addition the applicant's account of what happened at the age assessment differed from that recorded by the social workers and it was unlikely that they would have been very angry as he claimed. He denied having said that his sister was 35. There was a striking difference between the accounts he gave of the age gap between himself and his sister. His account of there being no 'minded to' procedure was contradicted by the record of that part of the assessment and his claim that he was not told that he could challenge the decision was also contradicted by the age assessment. The applicant denied having punched the table and claimed that he cried a lot of tears, which was not what the social workers had recorded. Mr Campbell referred to an email from the local authority to the applicant's solicitors and the PAP response which referred to the applicant following the social workers to their car and screaming at them, which he denied. Mr Campbell asked me to reject the applicant's account and accept the account of the age assessors. He asked me to find that the difficulties the applicant talked about in doing his own shopping and dealing with the electricity company were not only reflective of age but of being in a strange country and not having done those things before.
54. Mr Campbell relied upon the age assessment of two experienced social workers and asked me to find there to be a lack of information and evidence

supporting the applicant's account. The only reason that he had not to be candid about those various matters was because he was concealing his true age.

The Applicant

55. Mr Jagadeshm submitted that the evidence of Ms Taylor and Mr Hankinson was very helpful and should be given weight. They both confirmed that the applicant presented as a minor. Ms Taylor would not have pointed out safeguarding concerns if the applicant was placed with adults if she had not had proper concerns. As for the applicant's own evidence, that should be given a sympathetic assessment. Mr Jagadeshm relied upon guidance given in R (Q) v Leicestershire CC & Anor [2016] EWHC 2087 (Admin) and MVN v London Borough of Greenwich [2015] EWHC 1942 (Admin) about the primary focus being on the credibility of the applicant's account of his age. He submitted that the applicant's credibility should also be considered alongside the assessment by Ms Lewis and the joint presidential guidance in relation to vulnerable applicants, with consideration being given to the absence of an appropriate adult at the age assessment. Mr Jagadeshm relied on Ms Lewis's views about the applicant's mental health being affected by the fact that he was not believed about his date of birth and the consequential fracturing of trust, and her view that he was not feigning. The applicant had been consistent in his account of his date of birth and how he knew his date of birth and there was nothing problematic about the fact that he could not recall the circumstances of how and why he was told.
56. Mr Jagadeshm submitted further that the applicant's life experiences were consistent with him being a minor as he had never done his own shopping. With regard to his learning of Kurdish, the applicant remembered what was plausible for him to remember. It was not striking that he had no social media account. He gave a plausible account of not having his ID documents and of why he had not mentioned his birth certificate until later. He claimed that he had never stated that his sister was 35 years of age and that could have been a mistake by the social workers. It should be accepted that his sister was 25 years of age, as he had stated later, and that she was born in 1997. The applicant's account of someone helping him and S was not implausible and was indicative of his immaturity in blindly following the advice of an adult. Mr Jagadeshm relied on the decision of the Tribunal in JRZ v Liverpool Council JR/885/2001 where the Upper Tribunal found at [64] that hostile, surly and argumentative behaviour in the face of an authority might rationally be thought to belong more to an inexperienced teenager than to an adult and he submitted that the applicant's behaviour in punching the table could be construed as that of a minor. Mr Jagadeshm submitted that the age assessment should be accorded little weight given that it was undertaken shortly after Mr Hankinson had observed the applicant was not sleeping and was exhausted. The conclusion that the applicant was nine years older than claimed called into question the age assessment. The assessors relied upon the applicant's physical appearance, which was an unreliable basis for assessment. Even if the Brief Enquiry was accepted, there were reasons which formed part of the conclusion which were not included in the 'minded to' section such as the concerns about the applicant's account of the man helping him and S to go to Liverpool and the different accounts of the journey, which shows that the applicant was not

given an opportunity to respond. Ms Lewis's report showed that the applicant reported a genuine grievance at not being given an opportunity to respond to the social workers' concerns and not being told how he could challenge the Brief Enquiry. Mr Jagadesham asked me to find that the applicant was the age he claimed to be.

THE LEGAL FRAMEWORK

57. The legislative framework within which this case is to be considered is well-established and there was no disagreement between the parties on this. It is not, therefore necessary to set out relevant authorities at length. In brief, therefore, I set out the following principles.
58. Where the age assessment of the local authority is in dispute, it is for the court or Tribunal to reach its own assessment of age, as a matter of fact (R (A) v Croydon London Borough Council [2009] UKSC 8).
59. The various authorities make it clear that there is no burden of proof in such cases. In R (CJ) v Cardiff City Council [2011] EWCA Civ 1590 the Court held that the application of a legal burden of proof was an incorrect approach to adopt:

"[23] ...Where the issue is whether the claimant is a child for the purposes of the Children Act it seems to me that the application of a legal burden is not the correct approach. There is no hurdle which the claimant must overcome. The court will decide whether, on a balance of probability, the claimant was or was not at the material time a child. The court will not ask whether the local authority has established on a balance of probabilities that the claimant was an adult; nor will it ask whether the claimant has established on a balance of probabilities that he is a child".

60. In R (on the application of AM) v Solihull Metropolitan Borough Council (AAJR) [2012] UKUT 00118 the Tribunal made general observations about the impact of evidence of various sorts and from various sources, concluding that:

"[15] ...almost all evidence of physical characteristics is likely to be of very limited value",

" [19] ... So far as demeanour is concerned, it seems to us that there may be value to be obtained from observations of demeanour and interaction with others made over a long period of time by those who have opportunity to observe an individual going about his ordinary life. But we find it difficult to see that any useful observations of demeanour or social interaction or maturity can be made in the course of a short interview between an individual and a strange adult"

and

"[20] The asserted expertise of a social worker conducting an interview is not in our judgement sufficient to counteract those difficulties. A person such as a teacher or even a family member, who can point to consistent attitudes, and a number of supporting instances over a considerable period of time, is likely to carry weight that observations made in the artificial surroundings of an interview cannot carry."

61. At [21] of MVN v London Borough of Greenwich [2015] EWHC 1942, Picken J referred to the ADCS Age Assessment Guidance of October 2015:

“The **Merton** guidelines have also been reflected in the 'Practice Guidelines on Assessing Age' as developed for local authorities by the London Boroughs of Hillingdon and Croydon. That document sets out the relevant principles, as helpfully summarised by Miss Luh in her opening skeleton argument, without objection from Miss Screeche-Powell, as follows:

(1) The assessment must be a holistic one and must start with an open mind, with no imposition on the child to prove his age to the assessing social workers.

(2) Physical appearance and demeanour are notoriously unreliable factors not determinative of age.

(3) Cultural, ethnic and racial context of the young person being assessed must be considered as these may reflect in their presentation as well as their descriptions of their lives.

(4) General credibility is not to be determinative of age. It is more likely that a young person who tells a consistent account of his life which supports his claimed age will be the age he claims to be. Conversely, young people may lie for reasons unrelated to age but related to their claims for protection or the reasons they had to leave their country of origin.

(5) The child should be afforded the benefit of the doubt where evidence can tip one way or the other.”

and went on to say at [27] that:

“It would, therefore, appear that the primary focus is on the credibility of the person's evidence concerning his or her age, but that it is permissible to have regard to credibility more generally provided that, in looking at credibility more generally, the primary focus to which I have referred is not forgotten.”

62. In the case of HAM, R (On the Application Of) v London Borough of Brent [2022] EWHC 1924, Mr Justice Swift referred to the leading case in age assessment, B, R (on the application of) v London Borough of Merton [2003] EWHC 1689, and said as follows:

“10. Overall, several important matters can be taken from the judgment in *Merton*. *First*, when it is necessary to determine whether a person is a child (i.e. under 18 years old) for the purposes of the 1989 Act, there is no burden of proof, and so no assumption either way. Rather, the assessment required must be undertaken on its own terms. *Second*, the assessment decision must be made based on reasonable enquiry – the local authority must take the steps reasonable in the case in hand to obtain the information needed to take the decision it is required to take. What this requires will depend on the circumstances of the case. Stanley Burnton J recognised that there may be occasions when a decision that meets the requirement for fairness can be taken based on evidence of appearance and demeanour alone (see his judgment at paragraph 27). However, he also recognised that such occasions are likely to be rare, and that when the person being assessed might appear to be of an age close to 18 (say between 16-20), fairness might ordinarily

require the decision-maker to make further enquiries, either through an interview with the person to obtain his history, or otherwise (see his judgment at paragraph 28).

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

12. *Fourth*, that although there may be a range of things that a public authority might do to ensure the procedure followed was fair, those matters would not be requirements of fairness in every case. This category included matters such as whether the assessment be conducted by one social worker or two; whether a medical opinion or information from other professionals such as resident social workers or teachers may be appropriate; whether the assessment should be completed during a single interview or be undertaken over a more extended period; whether there should be verbatim notes of interviews; whether when an interpreter was required it was necessary for him to be present in person rather than by phone or video call.

13. The judgment in *Merton* did not rule out the possibility that on the facts of other cases some or other of these measures might be requirements of fairness. However, it is equally clear that Stanley Burton J did not equate the legal requirement for any fair procedure with any sort of checklist. Fairness in this context, as in any other, is a matter of substance not simple form."

DISCUSSION

63. This is a case where the applicant claims to know his exact age and date of birth but has not been able to produce any documents showing either, such as a passport, identity card or birth certificate, and relies instead upon his own account of how he knows his age and date of birth together with the supporting testimony of one witness and a statement from another. The focus is therefore largely upon credibility, particularly the credibility of the applicant's evidence concerning his age, and I have due regard to the principles outlined in *MVN v London Borough of Greenwich [2015] EWHC 1942* and extracted above in that respect. I also take account of the *Joint Presidential Guidance Note No. 2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance* and give due allowance for the fact that many child asylum seekers and victims of trafficking will have problems in presenting a coherent account of their personal history and travel to this country.
64. I am also particularly mindful of the opinion of Ms Lewis in regard to the applicant's mental health, his acute anxiety and his difficulties with memory and recall. I have read her report and addendum report very carefully and note that her professional opinion was that he was not feigning or exaggerating his symptoms. Ms Lewis's report is essentially relied upon in two respects. Firstly, to explain the difficulties the applicant may have in giving his account and his vulnerability as a witness and in general, and therefore to provide some possible context for inconsistencies in his evidence. Secondly, to identify matters which support his claim to be the

age he states, in terms of his anxiety and vulnerability as a reflection of his youth and in terms of his reaction to being told that he was lying about his age and the impact that such disbelief had on his mental health. Indeed it was as a result of Ms Lewis' views about the applicant's vulnerability and her concerns about his mental health, and as a result of her recommendations, that special measures and adjustments were made at the hearing to enable him to feel more comfortable and at ease in what was naturally a stressful situation.

65. It seems to me, however, that there are various aspects of the applicant's evidence which simply cannot be understood or accepted, despite considerable allowances being given to him as a result of his stated vulnerability and mental health issues and despite allowing for the most sympathetic assessment given those circumstances. Those aspects were identified by Mr Campbell and I have to agree with him that they are relevant matters which lead to concerns about the truthfulness of the applicant's account and the reliability of his evidence of his age.
66. The first of those matters is the applicant's explanation for how he knew his age. The applicant's evidence has consistently been that he knew his date of birth because his father told him the date, in both the English and Iranian calendar, when he was 10 years of age. His account of whether he had been shown actual evidence of his date of birth has not been consistent. During the brief enquiry he was asked if his father showed him documents which evidenced his age and he replied that he had not. However he has since referred to an ID card and a birth certificate, both of which were shown to him by his father, albeit that he claimed not to recall seeing his date of birth on the ID card and was unable to give any information as to when, how and why his father showed him his ID card. The birth certificate was not mentioned at all until the applicant's third witness statement where he made clear that he was illiterate at the time it was shown to him and so could not read it. The first suggestion of there being any other occasion when his date of birth was mentioned to him, other than when he was 10 years of age, was at the hearing when he said that it was mentioned when his father showed him his birth certificate on two occasions. Although it was agreed that no issue would be taken with the question of whether he had seen his birth certificate a second time, the fact remains that the applicant made it clear in his most recent statement that it was not from his birth certificate that he knew his date of birth.
67. The applicant's evidence appears, therefore, to be that there was only one occasion when he was told his date of birth and that was when his father told him when he was about 10 years of age. I cannot accept, however, that the applicant would remember the date from being told on one occasion when he was only 10 years of age, when he did not otherwise celebrate birthdays or anniversaries, particularly when he is otherwise unable to recall details of other, more recent events. It is also striking that, despite recalling a date in both the English and Iranian calendars from the age of 10 years, he is unable to provide any other information about that occasion. The Brief Enquiry form records, under the heading 'Age', that the applicant was unable to provide any specifics as to the situation in which his father told him his age and when asked for more details, simply said that *'That day - he told me I was almost ten years old'*. When cross-examined by Mr

Campbell and asked similar questions, he was again unable to explain what prompted his father to tell him his age, how his father told him about his age and why he told him at that particular time and not before. That was even when Mr Campbell suggested that it could be considered unusual that his father would tell him that information out of the blue and asked him again if he could remember anything about the occasion. Whilst it is not unusual that he may not recall details of events occurring when he was just 10 years of age, the same could therefore be said for it being unusual for him to have retained the knowledge of a specific date given to him at that time.

68. The applicant's apparent recollection of his date of birth stands in isolation as he has otherwise been unable to provide any other timeline which could possibly inform about his age. Mr Jagadeshm, in his skeleton argument, relied upon the applicant's claim not to have done military service as being consistent with him having left Iran before reaching 18 years. However that was not a matter raised further at the hearing and in any event, even it were the case that the applicant had not done military service there are any number of reasons as to why that was so and that has to be considered as part of the overall credibility assessment. The applicant claims not to have attended school and his oral evidence about when he learned to read and write in Kurdish was particularly vague. Although he said that a woman came to the village to teach him when he was 14 years of age, he was unable to say for how long she taught him, other than that it was for a short time which was less than a year, but he could not be sure if it had stopped by the time he was 15. He could not provide any information about how often she came to the village to teach him and how long she spent with him each time. He was not even able to remember if the teacher came every day or at longer intervals. For the first time, at the hearing, he claimed to have been largely self-taught. As Mr Campbell submitted, the applicant came across as being deliberately evasive.
69. As for evidence of employment, the applicant states that he worked in his grandfather's shop when his father became ill, but again his evidence in that regard was not consistent. He told the social workers in the brief enquiry that he worked there from January 2022 when he was 16 years and 2 to 3 months, whereas he would have been nearly 17 years of age by that time, on his own account of his date of birth and in fact in his asylum statement of 28 February 2023 he said that he was 17 years of age at the time. I accept that the inconsistency in this respect is not significant and I bear in mind Ms Lewis's comments on the applicant's difficulties in recollection. Nevertheless it is a further difference in the evidence. Of more significance is that the applicant told the social workers that his sister was 35 years of age and that she was 13 years older than him, which he then changed to 8 years, both of which would have made him older than claimed and at least 22 years of age. That was a matter which the social workers took as a particularly significant factor when reaching their conclusions in the Brief Enquiry, and I shall address their evidence in more detail at a later stage. The applicant has since claimed that he did not give his sister's age as 35, but as 25, and claims that he was confused when calculating the age difference. The contemporaneous notes of the social worker at page 441, as well as page 456, of the trial bundle record the stated age as 35, with calculations in line with that age, and there is no reason to believe that

mistakes were made in the interpreting or recording of the evidence. Indeed, the Brief Enquiry form, under the heading 'Minded to Session', shows that the applicant was specifically reminded of his evidence in that regard but it is apparent that he did not seek to correct it at that time, which is in itself telling.

70. There were other areas where the applicant's evidence was, likewise, strikingly vague and lacking in any kind of detail. When it was suggested to him that he could write to his parents to obtain evidence of his age he claimed not to know his address in Iran other than the name of his village which, as Mr Campbell submitted, appears to be unusual for someone of his claimed age. His account of his social media was difficult to comprehend. He claims to have had no social media prior to coming to the UK which again, as Mr Campbell submitted, appears somewhat unusual in itself for a young person. He then gave an account, which made little sense, of a friend setting up a Facebook account for him but of him then telling his friend to delete it because he realised there were some problems with it as it showed that it was established a while ago and that could create a risk for him. His friend then deleted it and set up a second account for him. When questioned by Mr Campbell the applicant was unable to explain this further and could not remember when the Facebook accounts were set up, other than that it was after he had come to the UK, he did not know what he had meant when he said that there was a risk for him, he was not sure if anything was posted on the first account and he could not provide any further information.
71. More generally, the applicant's account of his journey to Liverpool was somewhat questionable. I agree with Mr Campbell that it was difficult to accept that a random stranger would have paid for two train tickets from London to Liverpool and would have put the applicant and his friend on a train to Liverpool without telling them where they were going or what to do when they arrived there, and further that the applicant and his friend would not have asked any questions about where they should go and what they should do when they arrived. The Brief Enquiry also refers to the applicant and his friend S giving inconsistent accounts of the length of the journey and whether they went by train or bus, a matter which the applicant again claims is an error.
72. In addition, the applicant's account of what happened at the Brief Enquiry also differs quite significantly to the social workers' account, in that he claims that he was given no opportunity to respond to the social workers' concerns and was not told that he was able to challenge the decision or how to do it. He claims that the social workers just told him that he was lying and they then left the room. However the Brief Enquiry form clearly sets out a 'Minded to Session' where the social workers' concerns were put to the applicant and where he was invited to respond, and where he was informed of his rights in regard to challenging the decision and how to challenge the decision, after he was informed of the outcome of the assessment. That is clearly reflected in the social workers' contemporaneous notes at 453 to 456, and at page 209. The social workers described the applicant as having punched the table and feigned crying when he was told of their decision, and Liverpool CC, in the PAP response at page 482, referred to him refusing to leave the interview room until a staff member from the accommodation

intervened and then following the social workers to one of their cars from the accommodation and screaming at them forcing them to abandon one of their vehicles until it was safe to return. The applicant, however, flatly denied having done any of that and told Mr Campbell that he was simply asking them for help in Kurdish and that he had been crying a lot of tears when they told him the outcome of the assessment.

73. All of these matters raise concerns about the reliability of the appellant's evidence in general and the credibility of his account of his age and they are all relied upon by Mr Campbell in asking me to find that the applicant has not been truthful about his age.
74. The respondent's case otherwise rests upon the Brief Enquiry and the assessment of the two social workers to which I have already referred above, which I now consider in more detail.
75. As a starting point I accept that, in accordance with the guidance given in HAM, R (On the Application Of) v London Borough of Brent [2022] EWHC 1924, there was nothing unlawful about the assessment process in this case and indeed this was not a specific challenge raised before me at the hearing. I accept that the assessment was conducted fairly and properly, with the applicant being given an opportunity to respond to the concerns raised. I do not consider that any unfairness arose out of the fact that there was not a full Merton compliant age assessment with an appropriate adult. It is clear that the initial view of the immigration services was that the applicant was obviously an adult and was significantly older than claimed, and I accept that there was certainly scope for that to be the case given the applicant's appearance. Although there was no face-to-face interpreter present, no concerns were raised that the applicant did not fully understand the questions being asked or that his answers were not fully and properly conveyed to the social workers. The applicant had the benefit of a 'minded to' session and I do not consider that anything arises from the fact that that session took place on the same day as the assessment. There is therefore no reason not to accord weight to the Brief Enquiry in that regard.
76. In addition, the social workers have provided details of their qualifications and work experience. I note that both have worked with asylum seekers and in particular unaccompanied asylum-seeking children for some years and have been trained in conducting brief enquiries and age assessments, and that at least one of the social workers has undertaken numerous brief enquiries and age assessments in the past. I am satisfied that they are both experienced social workers with the relevant experience and skills for undertaking the task of assessing age and that their views carry significant weight. I have no reason to doubt their recollection of events at the Brief Enquiry nor their recording of the appellant's evidence and identification of inconsistencies and other concerns in his account, although I do disregard their conclusion as to the applicant having had ample time to obtain his ID document, and consider that to be based upon a misunderstanding of his evidence. I accept that the social workers provided proper reasons for concluding that the applicant had not been truthful about his date of birth and I give weight to their assessment in that respect. In the circumstances I give weight to the social workers' conclusion that the applicant was older than he claimed to be.

77. I also accept that, given their particular skills and experience, the social workers' views on the applicant's age based on an overview of not only his evidence but also the manner in which he conducted himself and his demeanour and appearance are to be accorded some weight, although I am mindful of the fact that physical appearance and demeanour are also factors which can be notoriously unreliable in determining age (see MVN v London Borough of Greenwich). That being said, it was not just the views of the two social workers that the applicant appeared clearly to be an adult, but that was also the view of the immigration officers who initially interviewed him as well as the view of the social worker allocated to him when he was moved to the UASC team, Christina Stirrup, as is apparent from the case notes dated 12 December 2022 from Liverpool CC at pages 235/6 of the trial bundle. Although that view was expressed shortly after she had met him, there is nothing further in the notes or elsewhere to suggest that she departed from that view.
78. I turn next to the evidence which is relied upon by the applicant and which is clearly more favourable to his claim. In doing so I am mindful that the views of those who observe children and young people in different settings and interactions with peers and other adults can often be more useful than the observations of a social worker based on a formal assessment of age.
79. The applicant relies upon a statement from Nicola Taylor, the ESOL manager at Wirral Metropolitan College where he was studying English. Ms Taylor concluded that *"his presentation and behaviour was typical of his stated age of 18"*. The weight to be given to Ms Taylor's evidence, however, is significantly undermined by the fact that it could not be tested in cross-examination as she was not present at the hearing. It is clear from an email Ms Taylor sent to the applicant's solicitor on 5 February 2024 that she had intended to be available at the hearing but was unable to do so because of family issues and, as Mr Campbell properly submitted, nothing adverse is to be taken from her inability to attend. Nevertheless the fact that her evidence could not be tested inevitably reduces its weight. That is particularly the case because, as Mr Campbell submitted, her evidence lacks detail in many respects and requires further clarification and the nature and extent of her contact with the applicant is far from clear. It appears from Ms Taylor's statement that her interactions with the applicant consisted of meeting him on 9 January 2023 when he performed his ESOL language assessment and subsequently observing him in the classroom setting when she performed *"learning walk observations around the college"*. It does not appear that she actually taught him, and there is no detail as to how often she observed him or indeed the context in which she observed him and the age range of the class he attended. Although she said that the applicant *"interacted with the other 16-18-year-olds in the canteen or during enrichment activities and she considered his interactions to be typical and consistent with a young person aged 16-18"*, she did not state why she reached that conclusion and provided no further details. At [10] she said that the applicant would be very *"obviously out of place"* if he were to be placed within an adult class and setting and that she *"did not believe him to be as old as stated by the Home Office/local authority at 27 years old"* and that *"his presentation and behaviour was typical of his stated age of 18"*. However, as Mr Campbell submitted, these were broad

assertions made without any explanation of the behaviour she considered to be typical of an 18 year old. There were no observations as to the possibility of the applicant falling within a wider age range which was a matter that could have been explored if she were available at the hearing. As such I have to agree with Mr Campbell that Ms Taylor's statement is of limited weight.

80. As for Mr Hankinson's evidence, that was also of limited weight given that he accepted that he had not seen the applicant interact with other adults or young people except for S, whose age was also disputed, and that for the past few years his work had only been with those treated as adults. Although Mr Hankinson said that the applicant's and S's presentation as being very scared was not typical of other adult homeless people he had assisted, he accepted that it was plausible that they could have been a bit older than they were claiming and he accepted that it was difficult to determine age. He said that there was a large gap between the age the local authority were stating and what the applicant was claiming and that it would be different if there was a smaller gap. Clearly, therefore, Mr Hankinson's evidence left open the possibility of the applicant being older than claimed, albeit not to the extent stated by the local authority.
81. Finally I turn to the evidence about the applicant's mental health. The applicant had several therapy sessions with Anna Collins, the Young Person's Psychological Therapist for YPAS, and her letter of 6 November 2023 is at page 557 of the trial bundle. Other than the fact that the service was provided to young people aged 14-25 and that reference is made to the applicant not feeling safe in adult accommodation, the letter does not mention the applicant's issue about his age and does not provide any views in that regard, but focusses on his issues with functioning on a daily basis and difficulty sleeping.
82. Of more assistance is the report from Ms Lewis to which I have referred above. I have summarised Ms Lewis's reports in some detail and therefore do not intend to repeat her conclusions, other than to state that her opinion was that his mental health issues had arisen as a result of events following his departure from Iran including his journey to the UK and the dispute about his age. Whilst there is no reason to doubt Ms Lewis's diagnoses and conclusions in relation to the applicant's mental health, it is of some relevance to note that she accepted that assessing and reporting on persons for age dispute cases was a new area of work for her. It is also relevant to note that the extent to which her report supports the applicant's claim as to his age is essentially limited to accepting that his anxiety and depression is consistent with his account of being incorrectly age assessed and placed in inappropriate accommodation. It is also very much based upon his own account. In response to the questions from Liverpool CC in her addendum report, she accepted that his reported experiences of insomnia and anxiety could be attributed to an adult or a young person of any age and that the irritability he described and the difficulties in regulating his emotions could be seen in a person of any age with mental health conditions. Although she noted that irritability was a common feature of adolescence, she accepted that increased irritability and difficulties with self-regulation could be displayed by a young adult between the ages of 18 and 25 as well as a minor and that the combination of experiences

described by the applicant could cause MDD and comorbid anxiety in a young adult as well as in a minor or someone who was until recently a minor, although she observed that the applicant appeared to have settled into the practicalities of his life in a way that she would not expect to see an older man do.

83. What can be taken from the report, therefore, is that Ms Lewis accepted that the applicant was a young man who was suffering from a moderately severe MDD with high levels of anxiety and that his mental health issues were consistent with his account of his experiences since leaving Iran and coming to the UK. It seems to me that there is nothing inconsistent in that report with the applicant being a young man, but older than claimed, who is anxious about the consequences of his claim not being accepted.
84. Drawing all of this together, I do not accept that the applicant has presented a truthful account of his age. Having given due allowances for his difficulties in recollection, the fear and anxiety caused by his current situation and his overall vulnerability as a result of his mental health issues, as set out in Dr Lewis's report, I simply cannot accept his account of his date of birth. I believe that he was supplied with that date in order for him to take advantage of the benefits provided to unaccompanied asylum-seeking children and I consider that his inability (or unwillingness) to provide any kind of reliable timeline to assist in assessing his age is because he is concealing his true age which he knows would make him ineligible for those benefits. I take note of the concerns of Liverpool CC in their response to the PAP and in a subsequent email from the local authority to the applicant's solicitor about his assertive and threatening behaviour which contradicted the picture of a scared child. I give weight to the Brief Enquiry conclusions and the views of the social workers, which are supported by the initial impressions of the immigration officers who interviewed the applicant when he arrived in the UK and the social worker from the Liverpool CC UASC team as referred to above.
85. However, having said that, I am not persuaded that the applicant is so much older than the age he claims to be. The significantly older age attributed to the applicant by the immigration officers and the age assessors was based largely on his physical appearance and demeanour, and I refer again to the guidance in MVN v London Borough of Greenwich in that respect and the caution which needs to be exercised when determining age on such a basis. The care records for the UASC team show a level of support required by the applicant in terms of managing money, shopping and cooking, which seems to me to be consistent with a younger adult. Although the weight to be given to their evidence is limited, as discussed above, both Ms Taylor and Mr Hankinson's evidence was consistent with the applicant being a younger adult and Ms Lewis's report, likewise, supported such a case. There is unfortunately otherwise little in the way of supporting evidence from those who may be better placed to provide helpful observations. The only supporting evidence that there is goes little further than indicating that the applicant is younger than the assessors consider him to be.
86. It is for me to provide an age and date of birth for the applicant. In circumstances where I do not accept the age attributed by the respondent

nor the age claimed by the applicant, the relevant question is what is a proper basis for reaching a conclusion on the applicant's age and date of birth. Mr Campbell's suggestion for a relevant point of reference was the applicant's initial evidence about his sister, that she was 35 years of age and that she was 13 years older than him, making him 22 years of age at the time of the age assessment, rather than his claimed age of 17.

87. It seems to me that that is a sensible approach to take on the basis of all the evidence. It is not inconsistent with the view taken by Ms Lewis or by Mr Hankinson and neither is it entirely inconsistent with Ms Taylor's view, particularly given the lack of opportunity to clarify her evidence further. It also accords with the calculation made by the social workers as seen in their notes at page 441 when the applicant first gave his evidence about his sister.
88. Accordingly, taking all the evidence before me into account and doing the best I can with that evidence, I am satisfied that the overall evidence is supportive of the applicant currently being 24 years of age and consistent with an assigned date of birth of 14 March 2000.

DECISION

89. I find that the applicant was born on 14 March 2000 and is currently 24 years of age and I make a declaration to that effect.
90. In so far as I have rejected the applicant's claimed age and date of birth this judicial claim is dismissed.