



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: JR/441/2021

**Heard at Field House on 7 -9 December
2021**

**Promulgated on 19 January
2022**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

HS

(Anonymity direction made)

Claimant

and

WESTMINSTER CITY COUNCIL

Defendant

Representation:

For the Claimant: Mr D Greene instructed by Instalaw Solicitors

For the Defendant: Mr F Hoar instructed by Westminster City Council

JUDGMENT

Background

1. By an application sealed on 21 February 2021 in the Administrative Court HS issued his claim for judicial review challenging a decision made by Westminster City Council not to accept his claimed age and date of birth and consequential decision to withdraw Children's Act 1989 services. The date of the impugned decision is said to be 21 December 2020, but the consequential unlawfulness is said to be continuing.
2. The statement of agreed facts reads as follows:
 1. HS is from Yemen but grew up in Saudi Arabia. He claims to have been born on 27 January 2002.
 2. HS claims to have two passports, both of which was stolen when he was in Brussels. One passport is his real passport which records his claimed date of birth, which is on his birth certificate; the other records a false date of birth 21

April 1996 and name, Mohammed Hatem Ali Hasan. HS claims that he required a fake passport with an older date of birth in order to leave Saudi Arabia without paying for an adult to travel with him and to avoid risk of extradition back to Yemen.

3. HS arrived in the UK on or around 27 March 2019. HS presented himself to local police, asserted he was 17 years old and was accommodated by Westminster City Council on the basis of his claimed age.
4. HS was subject to an age assessment by Westminster City Council. The age assessment took place over five sessions: 20 September 2019; 27 September 2019, 17 October 2019; 19 December 2019; and 31 January 2020.
5. HS was provided with the age assessment on 17 February 2020. On 11 March 2020 Westminster City Council withdrew accommodation and support from the Claimant and he was accommodated by the Home Office.
6. On 18 March 2020, HS informed Westminster City Council that he had a birth certificate which purported to align with the name given to Westminster City Council when he arrived.
7. On 20 March 2020, Westminster City Council agreed to reinstate support and accommodation pending consideration of the documentary evidence.
8. On 19 May 2020, Westminster City Council wrote to the Yemeni Embassy seeking clarification as to whether the birth certificate (and the stamp from the Yemeni Embassy) was authentic.
9. On 21 May 2020, the Yemeni Embassy responded to Westminster City Council confirming that the birth certificate is authentic.
10. A further age assessment took place over four days by the same social workers as before: 13 November 2020; 27 November 2020; 15 December 2020; and 21 December 2020.
11. On 21 December 2020, Westminster City Council informed HS that it maintained its decision that he was 23 years old.
12. 17 February 2021, HS issued a claim for judicial review challenging the lawfulness of the assessment of his age and the error in failing to consider the birth certificate produced as determinative of HS' age.
13. On 26 February 2021, Westminster City Council notified HS of its intention to withdraw support.
14. On 2 March 2021, HS applied for interim relief requesting that Westminster City Council that he be provided with accommodation and support commensurate with his claimed age pending the final determination of his age by the Upper Tribunal.
15. On 3 March 2021 Dove J listed the application for an urgent interim relief oral hearing.
16. On 4 March 2021, Roger Ter Haar QC sitting as a Deputy Judge of the High Court adjourned the case and directed that time be allowed for Westminster City Council to file an acknowledgement of service, HS file evidence in response and a hearing take place on 18 March 2021.
17. At the hearing on 18 March 2021, Roger Ter Haar QC sitting as a Deputy Judge of the High Court granted permission to HS's application for permission to judicial review and his application for interim relief.

3. The statement of agreed issues is in the following terms:

1. The primary issue for the Tribunal to determine is the Applicant's probable age and the secondary issue is his date of birth, if that can be established.
2. In order to determine those issues, the Tribunal should determine:
 - a. what of the birth certificate produced by HS relates to him and, if so, whether the information contained therein is correct;
 - b. the credibility of HS' account of his age and date of birth;
 - c. the weight to be placed upon the Respondent's age assessment;
 - d. the weight to be placed upon the third party opinion evidence.
3. Costs

The law

4. The general principles in a case of this nature are now well established. Section 20(1) of the Children Act 1989 provides:

“Every local authority shall provide accommodation for any child in need within their area”

5. A decision of a Local Authority not to accept a section 20 duty has an impact on the individual’s access to support under leaving care provisions following their 18th birthdays.
6. By section 23C Children Act 1989, even after a child in care becomes an adult, he or she continues to be owed certain duties by the local authority as a former relevant child.
7. In relation to the role of the Upper Tribunal in such cases as this; where the age assessment of the local authority is in dispute it is for the Tribunal to reach its own assessment of age as a matter of fact. It was recognised by Lady Hale in [R \(A\) -v- Croydon LBC \[2009\] UKSC 8](#) that this was not a task without difficulty:

“But the question whether a person is a “child” is a different kind of question. There is a right or a wrong answer. It may be difficult to determine what that answer is. The decision-makers may have to do their best on the basis of less than perfect or conclusive evidence. But that is true of many questions of fact which regularly come before the courts. That does not prevent them from being questions for the courts rather than for other kinds of decision-makers.”.

8. In [R \(B\) -v- Merton LBC \[2003\] EWHC 1689](#), the following guidance was given by Stanley Burnton J, as to the correct approach to that task:

“The assessment of age in borderline cases is a difficult matter, but it is not complex. It is not an issue which requires anything approaching a trial, and judicialisation of the process is in my judgement to be avoided. It is a matter which may be determined informally, provided safeguards of minimum standards of enquiry and of fairness are adhered to.”

9. Having made the point that, except in clear cases, the decision maker could not determine age solely on the basis of appearance, he continued:

“I do not think it is helpful to apply concepts of onus of proof to the assessment of age by local authorities. Unlike cases under section 55 of the Nationality, Immigration and Asylum Act 2002, there is in the present context no legislative provision placing an onus of proof on the applicant. The local authority must make its assessment on the material available to and obtained by it. This should be no predisposition, divorced from the information and evidence available to the local authority, to assume that an applicant is an adult, or conversely that he is a child...”

10. The Tribunal is not confined to choose between the positions of the parties; [R \(W\) v London Borough of Croydon \[2012\] EWHC 1130 \[§ 3\]](#).
11. The nature of the Tribunal’s inquiry under the Children Act 1989 is inquisitorial, [R \(CJ\) v Cardiff City Council \[2011\] EWCA Civ 1590 \[§ 21\]](#).

As for as how it goes about this inquiry, the Tribunal must decide the applicant's age on the balance of probability:

"Where the issue is whether the Applicant 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 Applicant must overcome. The court will decide whether, on the balance of probability, the Applicant was or was not at the material time a child. The court will not ask whether the local authority has established on the balance of probabilities that the Applicant was an adult; nor will it ask whether the Applicant has established on the balance of probabilities that he is a child."

12. Additionally, as set out in [R \(KA \(Afghanistan\) v SSHD \[2012\] EWCA Civ 1420](#) at paragraph 35, credibility is relevant:

'In any case, credibility often does have a very significant part to play in resolving an age assessment dispute'.

13. At [35] of [R \(MVN\) v London Borough of Greenwich \[2015\] EWHC 1942 \(Admin\)](#), Picken J said the role of the Court is akin to that of the local authority. That meant that the Court should follow the Merton guidelines and should also apply the benefit of the doubt principle.
14. Reference to further case law is discussed below following the submissions made.

Claimant's grounds of challenge and Defendants grounds of resistance

15. The Claimant, HS, relies on three grounds of judicial review being:
 - a. First, that the Defendant's assessment is wrong in fact: it has not found the "*right or wrong answer*" to the factual question of the Claimant's age and it is not based on firm grounds or reasons;
 - b. Second, the Defendant erred in failing to consider the Claimant's birth certificate is determinative of the Claimant's age;
 - c. Third, the Defendant's assessment of the Claimant's age assessment was procedurally unfair.
16. Hereinafter the Claimant shall be referred to as 'HS' and the Defendant as 'WCC'.
17. In relation to the first issue HS asserts WCC's conclusion is not based on firm grounds and reasons and fails to take into account relevant evidence and as such does not warrant significant weight being placed upon it. HS argues he has provided a consistent account of his age following his arrival in the UK, explained reasons for inconsistencies in his age assessment, his giving inaccurate information relating to his fake passport is consistent with the account of the child who has arrived in the UK fearful of authority and unaware of customs and practices of the UK, and argues WCC in arriving at the conclusion concerning his age has relied on two factors namely (a) HS's credibility and (b) HS's demeanour. It is also argued that WCC placed a burden upon HS to prove his age and that the further age assessment was

- based on a pre-disposition that HS was an adult and in doing so undertook a non-Merton compliant age assessment.
18. In relation to the second issue, and specifically the assessment of credibility, HS argues particular importance should be given to his evidence concerning his age above credibility more generally and that he has provided a credible account that he was told his age when he was young and his mother would remind him of it when she reminisced about her age. HS asserts he was honest about his false passport following the obtaining of the Eurodac information and that the fact he was not forthcoming with such information initially is said to be consistent with a minor who is unfamiliar with the UK and fearful the impact of any such disclosure would have on his asylum claim. HS asserts, in any event, he has provided a frank explanation of his journey to the UK and regarding his fake passport. HS also asserts he has provided credible explanations as to the inaccurate recording of information by the Belgian authorities, explaining the circumstances in which that occurred which he asserts should not be dismissed out of hand when considering that allowances must be made for asylum seekers regarding the coherency of their accounts and history. HS asserts he has provided a straightforward explanation during the age assessment regarding the issues with President Saleh's death claiming that numbers are hard for him by reference to the difference between the Gregorian and other calendars.
 19. HS asserts WCC speculates about his claim without evidence or country understanding whether what was claimed was possible; making an error in law in assessing the credibility of the claim in isolation without considering other relevant evidence such as reports regarding a country that corroborates the claim. HS also asserts WCC's assertion that it was unlikely the authorities in Spain and Belgium would return a fake passport to him was not supported by evidence regarding common practice in those countries. HS asserts the credibility assessment was flawed and unlawful and contrary to the Merton principles and was otherwise irrational and unreasonable.
 20. In relation to the issue of demeanour, HS asserts that placing excessive reliance on his demeanour was not conducted in accordance with Merton principles and cannot stand. Throughout the age assessment his demeanour is recorded regarding his concentration and calm nature. HS asserts that the age assessment in placing a significant weight and demeanour was not Merton compliant and is therefore unlawful.
 21. In relation to the burden of proof claim, HS asserts that in continuing the assessment rather than holding a fresh assessment WCC imposed a burden of proof upon him to disprove the previous conclusion.
 22. In relation to the claim concerning conclusion and precedent fact challenge, HS asserts that based on the above WCC's assessment of his age was not based on firm ground and reasons and reached the wrong conclusion as to his age. HS asserts his claimed age is supported by individuals who spent a significantly longer period with him such as SB who had been teaching him in person three days a

week for almost 5 months until the national lockdown and continue to do so remotely. HS asserts the observations from SB cannot be dismissed out of hand and supporters his claimed age.

23. In relation to the challenge to the failure to consider the birth certificate as determinative the issue; HS refers to WCC having obtained confirmation from the Yemeni Embassy that the stamped birth certificate is authentic which is not disputed. HS asserts the sole basis on which WCC seeks to dispute the birth certificate is on the basis of his credibility. HS denies the history of how he obtained his birth certificate is unreliable and has provided WhatsApp conversations between him and his cousin in November 2020 and a translated version for these proceedings and corrections for a misunderstanding as to how the documents were obtained during his age assessment read through, which HS asserts have not been accepted by WCC. HS asserts he has now produced an original birth certificate proving his age as he claimed before he was able to obtain the document and maintains WCC has failed to engage with material which should be determinative of the fact in dispute. HS asserts any implausibility in relation to how and when his birth certificate was obtained is insufficient to be trumped by any inconsistencies in the age assessment. HS asserts WCC erred in failing to consider the birth certificate as determinative of his date of birth.
24. In relation to the third ground, procedural unfairness, HS asserts his age assessment was not conducted in a manner which is procedurally fair in that (a) WCC failed to ensure that there was a fair and effective “minded to” process; and (b) failed to ensure that the interpreters and HS understood one another on 20 September 2019 and during the further age assessments. HS asserts the readthrough of the age assessment with him did not amount to a fair and effective “minded to” process on the basis WCC merely recorded the clarification provided by HS in the first assessment but does not alter its view or consider that its initial understanding may be incorrect. HS asserts the comment in the age assessment that he had ‘the means and access to people who can provide him original documents with details tailored to meet his needs’ was in evidence but no response from him is recorded. HS asserts that the first stage assessment was procedurally unfair for failing to ensure that there was a fair and effective “minded to” process and that the faults in the first stage assessment permeate the further age assessment.
25. In relation to the use of interpreters, HS submits the failure to accept his complaints about the interpreters in the first session of the age assessment and in the further age assessment was procedurally unfair. Denial of any difficulties regarding the understanding between him and the interpreters is at odds with the age assessments in the contemporaneous notes made by the assessors for the reasons set out at [108 (a-d) claimant’s grounds]. HS asserts it is a concern that inconsistencies that arose as a result of he the interpreter not understanding one another had been used against him in determining that he is not credible, which he asserts is plainly unfair.

26. WSS in the Summary Grounds of Resistance refers to the issues submitted to be the key ones in the claim namely (a) HS's use of a passport with a date of birth in 1996 which he appears to admit using in flights to Malaysia in around 2017, and in flights from Saudi Arabia to Morocco, from Morocco to Spain and from Spain to Belgium in 2018/19; and (b) HS's provision of the birth certificate in the name he now claims (later certified by the Yemeni authorities) that was first provided to WSS in October 2020 and that was issued in January 2017, shortly before he began his journey.
27. WSS records HS's claim to have travelled to the United Kingdom from Saudi Arabia, where he had been living with his family, using a Yemen passport that stated his date of birth was 21 April 1996 which he claimed was 'fake' even though he appears to claim he had with him another passport with his correct details.
28. HS records the following which includes reference to HS's own admissions:
 - (1) He used the passport in Spain in 2018.
 - (2) Despite claiming to have informed the Spanish authorities that the passport was fake, he asserts that it was returned to him.
 - (3) He used it to fly from Spain to Belgium in 2018.
 - (4) His fingerprints were taken in Belgium and his passport was again returned to him, notwithstanding that (on his account) he informed the Belgium authorities that the passport was fake.
 - (5) Although HS alleges that his uncle purchased the passport in Morocco before he obtained access to Spain in 2018, he then stated that when he used the passport to fly from Spain to Belgium, he was able to do so because 'in the real passports there Malaysian this was because 3 years ago I had travelled to Malaysia [sic]'. The only construction of this sentence that makes sense is that the 'real passport' had Malaysian 'stamps' or 'visas' on it, although it is unclear why this would allow him to travel within the EU without a passport; and that it was the 'real passport' that he used. The authorities in Morocco, Spain and or Belgium would not otherwise have been aware of those stamps; and could not conceivably have allowed him to fly on one passport after informing them that it was fake.
 - (6) HS admits flying to Morocco in 2018.
29. WCC asserts the only plausible conclusion to which one can come from HS's case is that he flew on the same passport on each of these journeys. There would otherwise be no reason for him to refer to Malaysian stamps (were the passport to have been used one would expect entry and exit stamps from Malaysia), although this contradicts his account in the assessment of 22 September 2019 that he had travelled to Malaysia on his previous passport. WCC asserts HS's statement is internally inconsistent on the one hand claiming that his uncle bought the passport in Morocco and yet on the other that it had stamps confirming that he travelled on it on at least one flight before arriving in Morocco.

30. In relation to the Yemeni birth certificate; WCC contends that HS evidence contains a contradiction that the birth certificate is a genuine document and that the passport must be considered in the light of all the other evidence including:
- (1) HS only produce a document four days after he was removed from care on 11 March 2020.
 - (2) HS twice denied that he had ever used a different name or date of birth in his initial age assessment on 28 September 2019.
 - (3) In fact, the Belgium authorities confirmed through fingerprint evidence that he had used a passport with the date of birth of 21 April 1996.
 - (4) It was only when the information received from the Belgium authorities was put to him that he admitted he had used the above passport and only then that he alleged that it was fake (as he was bound to do so as he would otherwise have had to admit to having been born in 1996).
 - (5) HS himself stated that *'money overrides the law and if you pay well you can pass'* when being asked about his passports.
 - (6) HS claims he told both the Spanish and Belgian authorities that he had two passports and that the real one showed he was a child but, in both countries, the passports were returned and he was sent on his way. Moreover, as outlined above, he states in his witness statement that he informed the authorities in both countries that the passports were fake. The Court is entitled to take judicial notice of the fact that it is inherently unlikely that any authorities in any European country would not confiscate a passport if they either discovered that it was fake or if they were told that it was; and that it is possible if not probable that they would have arrested HS had he admitted to the criminal offence of travelling with a false passport. This strongly suggests that HS did not inform the authorities that either that the passport was fake and suggests that the passport with a 1996 date of birth was not in fact fake. HS's assertion that this conclusion is unreasonable without enquiring of these two States is fanciful.
 - (7) HS's account that his uncle purchased a fake passport for him in Morocco is inconsistent with his account that he retained his supposed 'true' passport (with the data birth in 2002) until he supposedly lost it in Belgium. If he had a genuine passport, his uncle and he would have had no need to go to the risk of purchasing and then flying on a fake one. This accords with his evidence that the passport on which he travelled contain stamps from the flights to and from Malaysia.
 - (8) It was only after his age assessment was completed and he had been moved to National Asylum Support Services (NASS) accommodation in March 2020 that HS claimed to have his birth certificate.
 - (9) The actual birth certificate was not produced until 2 October 2020 when HS was again facing a move to NASS accommodation. HS

- went to his room and reappeared with it despite having said that it was impossible to obtain up to that point.
- (10) The chairman of Yemeni Community Association, Mr Masri, whom HS says arranged for a person to take the birth certificate from Yemen to Egypt, says that is not true and denies the entirety of HS account; in response to which HS accused Mr Masri of lying.
- (11) The birth certificate was issued on 14 January 2017, shortly before HS began his journey.
- (12) The date of birth in the passport is consistent with the other indications of age set out in WCC's careful and detailed assessment; HS's admitted use of the passport, including with his uncle on a family visit to Malaysia that was not an attempt to flee Saudi Arabia or Yemen, is consistent with it being his true passport; and his credibility about his age and identity is so minimal that nothing he says can be accepted unless it is supported by other credible evidence.
- (13) Whilst WCC accept that the birth certificate is genuine (in light of the confirmation by the Embassy) it does not accept that it is HS's birth certificate. The assessors concluded that HS, through his contacts, was able to purchase this document in the same way that he claims to have been able to obtain and travel on a false passport. In the light of his admitted ability to obtain effective fraudulent documents and the significant evidence that he lacks credibility in relation to these documents, it cannot reasonably be said that that birth certificate is more likely than the passport to be genuine. On the contrary, taken with the other evidence of age, the passport is much more likely to contain HS's correct data birth.
- (14) The case of *GB v Oxfordshire County Council* [2015] UKUT 00429(IAC) relied upon by HS is distinguishable on its facts and does not (and could not in the light of higher authority) require a court to accept the identity of HS on the basis of only one document, still less one that contains no photographic or other evidence that the person it documents is indeed HS. In that case, the claimant relied on several documents (including a biometric passport as well as a birth certificate, para 7), evidence was adduced 'detailing the administrative systems out of which those documents have been generated' (para 41) and the defendant authority did not suggest that the genuine records related to anyone other than the claimant (para 41). By contrast, this is a case where there is only one document, of a kind that contains no photograph to link it to HS, it conflicts with a passport that (the HS's evidence suggests) he used to fly between at least six countries (Saudi Arabia, Malaysia, Yemen, Morocco, Spain and Belgium), it was not produced until after the initial age assessment, and there is no evidence of how it was obtained by HS other than his own account.
- (15) Thus, the existence of the birth certificate, does not itself raise a factual case that could properly succeed at a contested hearing (at the permission stage); and the evidence of HS's frequent use of the

passport with the date of birth in 1996 supports WCC's case that the age determination was correct. When taken together with the detailed and careful determination, HS is left without a factual case that could properly succeed.

Discussion

31. As noted in the schedule of agreed facts it is not disputed that HS is a national of Yemen who was brought up in Saudi Arabia in a Yemeni family. It is HS's claim that he left Saudi Arabia after he completed his education in 2018, arriving in the United Kingdom on 29 March 2019. HS claims he not only completed his education shortly before he left Saudi Arabia but that he also married his wife in 2018 not long before he left.
32. In relation to when he left Saudi Arabia, HS claims in his witness statement that it was around the end of Ramadan that year, in late 2018. Ramadan in 2018 began on Thursday, 16 May 2018 according to Saudi Arabia and ended on Thursday, 14 June 2018, the ninth month of the Islamic calendar which ran in using the Gregorian calendar, between May-June 2018. The reference to 'leaving late in 2018' must be taken as a reference to the Islamic calendar, i.e. nine of the 12 months, rather than a reference to the Gregorian calendar when May- June would clearly not be categorised as being late 2018.
33. A further indication of when this period was can be ascertained by reference to HS' evidence in his witness statement concerning his journey to the United Kingdom. It is an agreed fact that HS arrived in the UK on 29 March 2019. HS claimed to have spent 2 to 3 days in France which suggested arriving there on 26 March 2019, four months in Belgium suggesting arrival in November 2018, three days in Spain indicating November 2018 and five months in Morocco suggesting arrival in June 2018 to where he flew from Saudi Arabia. This would indicate his leaving Saudi Arabia in May or June 2018.
34. HS asserted he was forced to leave Saudi Arabia as a result of problems encountered by the authorities. Whilst it is accepted that Saudi Arabia has been trying to deal with a surplus of foreign workers in recent years it is also the case that Yemeni nationals were able to live in Saudi Arabia with rights similar to those of nationals of that country as a result of the Tarif Agreement. It is clear HS was able to live in Saudi Arabia where he was educated, married, and had been issued a Residence Permit, according to his own evidence. This is, however, not a hearing of his claim for international protection or leave to remain in the United Kingdom on any other basis although it is noted that when HS was confronted by the British Transport Police on arrival at the Victoria Bus Station in London he told them that he had come to the UK to study.
35. It is plausible that HS received an education in Saudi Arabia and he refers in his evidence to having attended both primary and secondary school. He confirms his primary education was completed within six years which he claims to have started aged 6 or 7, to have completed three years secondary education, after which he went to High School.

36. Public education is free and necessary for citizens and residents enrolling in government schools in Saudi Arabia. The initial stage of education, primary education, consists of six academic years, the compulsory age for starting education being 6. It is therefore plausible that HS would have enrolled in the primary education sector when he was six years of age and to have completed this stage of education when he was 12 years of age.
37. The second stage of education, middle school also known as Intermediate School, consists of three academic years. It is plausible HS would have entered this stage of education aged 12 and completed the same when he was aged 15.
38. Upper Secondary consists of three academic years between 15 and 18 with graduation generally at aged 18. It is plausible HS undertook three years of study at this level as he claims he studied chemistry, biology, maths, Arabic, and similar topics, when it is known that different academic options are made available for male and female students at this stage. Male students are able to study religious science and Arabic, administrative and social science, natural sciences and applied technological sciences, which include those topics HS was able to study.
39. Post secondary or tertiary study, also known as Higher education follows thereafter which ties in with HS' reference to attending High School which he claims he studied for only one year; leaving at a point in 2018 shortly prior to his leaving Saudi Arabia.
40. The significance of the chronology relating to HS education and the specific question at large in this case is that HS claimed to have been educated at a time that would have placed him around 18 years of age, and to have married when he completed his education (HS statement of facts and grounds [14]), yet also claims to have entered the UK when he was 17.
41. Placing these individual events into a tabular form when comparing how they impact upon both the assessed and claimed dates of birth the following arises:

| Event by reference to above material | If born 21/1/2002 | If born 21/04/1996 |
|--|-------------------|--------------------|
| HS aged 6 - entered Primary school. | 2008 | 2002 |
| HS aged 12 -entered Intermediate school. | 2014 | 2008 |
| HS aged 15 - entered Secondary school. | 2017 | 2011 |
| HS aged 18 - entered High School. | 2020 | 2014 |
| HS marriage | 2018 (aged 16) | 2018 (aged 22) |
| Ramadan 2018 | HS - 16ys 4 mths | HS -22yrs 1mth |
| HS arrival in the UK 29 March 2019 | HS - 17ys 2 mths | HS- 22yrs 11mths |

42. In relation to appearances, this is not a case in which it is possible to determine the question by observing HS who it can be said is clearly a young adult male.
43. HS referred in his initial statement having travelled with an uncle although in some societies such a term is used to refer to an older adult male rather than indicating a family connection as it would in the UK, although he does refer to the uncle being a maternal uncle which is not disputed before me. HS does later in his evidence referred to the use of an agent which appears to be a reference to a person who facilitates travel to gain entry to countries such as the UK for financial gain for those not otherwise entitled to enter, as demonstrated by the reference by HS to the obtaining of false documents and facilitating his passage through Jeddah Airport in Saudi Arabia by unofficial channels. The evidence does not suggest a reference to an agent who is a travel agent in the same way that such a term may be understood on the UK high street.
44. People traffickers such as agents are known to tell some they facilitate to enter the United Kingdom to claim to be underage to prevent their being returned to their country of origin and to benefit from the known support that is available to those who are underage. It is also known that documents can be produced to support claims that an individual is of the age they claim to be, meaning that care has to be taken when evaluating the weight that can be given to the evidence relied upon. The statement made by HS to the effect that 'if you can pay you can get what you need' is factually correct and as Mr Hoar submitted, is relevant when assessing how HS was able to obtain the documentary evidence, specifically the birth certificate, that he seeks to rely upon.
45. There is within HS' bundle transcripts of the assessment undertaken by those appointed by WCC to undertake the age assessment and which was the subject of detailed cross-examination and re-examination of HS.
46. I deal at this point with the assertion by HS that no weight can be placed upon the age assessment as a result of a number of problems including interpreter issues. HS gave his evidence to this Tribunal through an Arabic interpreter and whilst it was necessary at times for the interpreter to clarify some of the information she was given there was nothing to indicate any problems with the interpretation. I am satisfied that the answers to the questions HS gave in Arabic were properly interpreted into English and vice versa. Having carefully considered the evidence provided by WCC I am not satisfied that HS has established that the interpreters that were made available to assist in the age assessment process demonstrated a lack of understanding in either English or Arabic or the job they were required to do. I am not satisfied, in particular, that weight cannot be placed upon the record of the answers given by HS to the questions asked of him as part of the age assessment process. I am not satisfied HS has established issues arising with the standard of interpretation that warrant little or no weight being given to his answers. Seeking clarification during what was a considerable period of questioning,

read back, explanation, and further questioning following the production of the birth certificate (which is discussed below), is understandable and normal. What it does not establish is a lack of confidence or ability in the interpreter sufficient to undermine the age assessment process.

47. I note the specific assertion made by HS that interpreter issues identified on 19 December 2019 impacted on the assessment as a whole, but such an assertion has not been shown to have merit.
48. There is a record of a conversation involving interpreter issues during the Age Assessment read back, which also shows comments made by HS, indicating a lack of merit in the assertion that the assessors did not make a detailed note of his responses. The fact the assessors may not have accepted the credibility of such responses or concluded they did not deal with specific issues satisfactorily does not mean they were not properly factored in. In relation to interpreter matters it is recorded that HS stated:

HS stated that if you bring an interpreter that does not speak very well what I am supposed to do maybe they didn't tell you properly. The first interpreter was from Libya and I didn't understand him. Amerjit explained that he was asked before, during and after the assessment. HS said that he felt that the interpreter may have not provided the information correctly in English.

49. Although HS raised this issue the records quite clearly show that he was asked before during and after the assessment whether he understood the interpreter and indicated that he did. HS' complaint also appears to specifically relate to what is described as the first interpreter. The Age Assessment front sheet shows the use of Abdul Baset Dawes, an Arabic interpreter on 27 September and 17 October 2019 and a different Arabic interpreter, Maysun Maktari, on 19 December 2019, 31 December 2020, and 17 February 2020. There was therefore ample opportunity for HS to provide any answers required to correct what he perceived to be incorrect information provided; including at the read back of the re-assessment of the case as a whole following the production of the birth certificate. I do not find on the balance of probabilities that HS has established any unfairness arising from interpreter issues.
50. I am similarly not satisfied that HS has established that little or no weight can be placed upon the age assessment. The assertion in HS' grounds that the assessment is based predominantly on demeanour misrepresents the information available to the assessors and how the same has been assessed and weighed in the balance. The fact the assessors did not accept explanations provided by HS does not mean that information was not considered with the required degree of anxious scrutiny. A reading of the age assessment enables the reader to fully understand how the assessors arrived at the conclusion they have, that HS's date of birth is more likely to be 21 April 1996 and not 21 January 2002.
51. I do not find HS has established his claim that the further age assessment, following the production of the birth certificate is based on a predisposition that he was an adult. It is clear that having arrived

at the initial assessment that HS' date of birth was 21 April 1996 and deciding in light of the evidence that had been produced that it was appropriate to reassess the matter, and to undertake further questioning of HS and to factor that into the evidence as a whole, that the age assessment arrived at the final conclusion that it did in a fair, balanced, and Merton compliant manner. The assertion this was based on credibility and demeanour only, to the exclusion of other evidence, such as to attempt to undermine the weight that may be placed upon the age assessment, is without merit.

52. It is clear that there was an adequate read back of the age assessment to HS who had the opportunity to comment upon and clarify any points of concern to him. It does not mean such comment was not treated with the required degree of anxious scrutiny just because it was not accepted as altering the overall assessment. It is not made out that those undertaking the assessment erred in relation to the 'benefit of the doubt' principle i.e. that a favourable judgement was not given in HS' favour in the absence of full evidence indicating any other conclusion was the correct one to reach. The benefit of the doubt does not mean believing HS's evidence above all other. The conclusions arrived at following careful assessment of all the available evidence.
53. It is clear from looking at the evidence as a whole that at each stage that HS was interviewed for the purposes of the assessment he was accompanied, as required, by appropriate adults. For example on 27 January 2002 present was the assessing social worker, a representative from the Refugee Council, a volunteer, HS's foster carer, and Arabic interpreter together with HS. The same persons are recorded for the interviews prior to the time HS produced the birth certificate and thereafter, such as on 13 November 2020 for example, the record shows that in addition to HS there was present the assessing social worker, second social worker, an advocate from Barnet Refugee Services, and Youth Well-Being Coordinator, and Arabic interpreter, an appropriate adult - the independent person. On the 27 November 2020 the same assessing social worker and social worker were present as was the same representative of Barnet Refugee Services and others, and the Yemeni/Arabic interpreter, on 15 December 2020 the same adults were present. My attention has not been drawn to any comment, assessment, or statement by any of the non-social worker participants indicating any problems with the conduct of the assessment, sufficient to undermine the weight that can be placed upon the same, or in relation to HS's inability to understand the interpreter or process as a whole.
54. I have noted in this respect the witness statements provided on behalf of WCC which support a finding that the age assessment is Merton compliant. I make such a finding of fact which can properly be made from considering the content of the documents and the evidence as a whole.
55. In relation to the issue of passports, when HS was asked on 27 September 2019, during the interview for the purposes of the age

assessment, how old he was, he replied "17" and gave the date of birth the 27 January 2002. I accept the point made by HS that he has been consistent in maintaining this fact. HS was asked whether he had any documents to confirm his date of birth like a birth certificate passport or medical card to which he replied "No". HS confirmed, however, that he had held a document showing his date of birth which was a passport in the name of HAHS although he also referred to a second passport. His answers to questions are recorded in the following terms:

"When you said the second passport was issued in childhood what did you mean?

I'd say my age the time was 14 - 15 maximum.

How long has it been since the passport was issued?

They didn't take the photo instantly when you get the passport, they asked to bring a photo.

About two - three years ago. AA clarified he did not say 2/3 years.

You said the second passport was issued in childhood.

The first passport was when I was a baby.

The second passport I can't remember how many years back.

The second passport photo was issued in childhood.

Yes, I did.

You said you were 14 or 15. I then asked how long ago was the passport issued?

About two years ago. Could be two - three years but can not give a precise date. It's not me who requested it was my dad.

Where is the passport?

I lost it in Belgium. I had my bag stolen.

Did you report your passport as stolen?

No, I didn't report it.

Did you fly into Belgium?

Yes.

With that passport?

Yes.

Did you get a Visa?

No. Can you tell me what a Visa is? A Visa is something you requested an embassy for the country you wish to visit and they stamp it in your passport.

So you flew to Belgium without a Visa?

I flew from Spain to Belgium without a visa.

Did you have any visas on your passport?

Yes Malaysia and Morocco visas.

Have you travelled to Malaysia?

Yes.

When did you go to Malaysia?

About two years ago.

Who did you go with?

My uncle.

What was the reason for going?

My uncle has friends there.

Where did you stay?

In Kuala Lumpur.

How long did you stay?

10 days.

Then where did you go?

We came back to Saudi Arabia.

When you go to Morocco?

In 2018.

How long did you stay?

Five months.

Do you have any other visas?

No.

56. When HS was asked about his journey from Saudi Arabia to Morocco and from there to Spain, he claims that he and his uncle flew to Morocco and entered Spain from there by boat. They then flew from Spain to Belgium, split up in Belgium, HS went to France by train, and then on by bus to the UK.
57. In relation to the earlier passport, it is not implausible that HS' father would have applied on his behalf, especially if he was a minor, for a passport, especially if it was proposed that he was to travel with a family member.
58. HS' description of the Yemeni passport as having an Eagle logo on the front and being blue/black in colour reflects country information showing Yemeni passports have a dark blue cover with gold printing.

59. To obtain a passport from the authorities in Yemen requires the applicant to submit their Yemeni ID, birth certificate, application and photographs. HS and his family lived in Saudi Arabia rather than in Yemen but there was clearly a Consular facility enabling applications for passports to be made in Saudi Arabia which would have been passed the required information to the appropriate immigration body within Yemen responsible for issuing the passport.
60. It is this passport that HS asserts he used to enable him to travel to and from Saudi Arabia, to enter and leave Malaysia, and travel then to Morocco with no indication of any difficulties from the immigration authorities. There is no indication that if HS or his uncle required a Visa to be endorsed in their passports to enter those countries as visitors, any concerns were raised regarding whether the passport was genuine or not.
61. HS stated in his interview that he used the passport when he entered Spain and flew from Spain to Belgium using it. He claims he told the authorities in Spain and Belgium that the passport was false yet despite this the document was handed back to him with no indication of any action being taken, for example, relating to attempting to enter either country with forged documents.
62. HS claimed that they were in Spain for three days after arrival from Morocco but that they were stopped and taken to a prison but then released and referred to a refugee agency who assisted him in flying from an airport in Girona in Spain to Belgium.
63. If HS had a Schengen Visa, which he might have been able to obtain in Spain if he was in that country lawfully with valid travel documents, it is likely that his passport would have been stamped and he would have passed through immigration services both at the airport in Spain and on arrival in Belgium.
64. HS also claimed that he was able to travel from France to the UK on a bus. Documents in the bundle record information being provided by the British Transport Police and their interaction with HS at the Victoria Bus station in London. To have travelled on a coach from France to the UK would have required the vehicle to pass through UK border controls. Passengers on a bus are required to alight the vehicle and pass through border controls in person providing the necessary documents to establish they have a right to enter the UK. That HS makes no reference for experiencing any difficulties with UK border control, despite being a Yemeni national and not an EU national, is unlikely unless he had in his possession documentary evidence of an entitlement to move freely throughout the EU, yet he claims not to have had any Visa permitting him to do so.
65. Whilst it might be possible that one European country might hand back a passport that the holder claims to be false it does not appear credible that two European countries would do so or permit illegal travel within the EU to a foreign national from Yemen with no right to be there or who had admitted a criminal offence. HS' claim that the passport which contains the 21 April 1996 date of birth is false and

- that despite admitting this fact to border officials he was able to travel and have that document handed back to him I find implausible.
66. HS was also asked whether he had been fingerprinted which he denied although it subsequently emerged from a EURODAC search that he had been fingerprinted in Belgium where his details were recorded as being HAHM, date of birth 21 April 1996. When HS was asked why he did not mention having been fingerprinted his reasoning did not provide a satisfactory explanation. For the authorities in Belgium to have recorded HS' details as noted above they must have either seen the passport containing the stamps for Malaysia, Morocco, etc which would have contained such details, or HS had provided such information to them. It is not clear why HS would have provided a date of birth of 1996 if he claims his real date of birth was 2002.
 67. I note the assertion in the pleadings and submissions that consideration needs to be given to the fact that HS was an asylum seeker not familiar with the process and procedures may have been frightened and therefore not given accurate information but that does not explain all the evidence points which undermined HS is case.
 68. In relation to the process at Brussels airport, only those permitted to use automated border control gates are those who are aged 12 years or more, possess an EU passport, or who fly from a nominated gate. Passengers travelling with non-EU passports and EU passengers with children younger than 12 must pass through traditional border control where their travel documents will be manually checked.
 69. It is important to consider such border controls in the context of the reality of modern life and particularly those seeking to enter Europe illegally where issues of people trafficking, terrorism, and immigration offences are of concern. Despite this HS claims two EU countries handed him back documents he admitted were forged, which he had used to attempt to enter that country, without taking any further action against him. I do not find that HS has been consistent or credible in his claims in relation to his travel documents.
 70. HS claimed he needed to obtain what he asserts is the false passport as it would cost him more money if he tried to travel when he was younger and referred to difficulties at the airport in Saudi Arabia if attempting to travel alone as a young person. Saudi Arabian airlines in relation to young persons aged between 12 and 16 may treat the same as unaccompanied Minors upon request from their parents, if there is any doubt of the minor's ability travel alone, or if the minor is accompanying another child under 12 years of age, but none of these criteria appear to apply to HS, undermining his explanation for obtaining the passport he alleges is false.
 71. HS also claimed he required a fake passport with an older date of birth in order to leave Saudi Arabia without paying for an adult to travel with him and to avoid risk of extradition back to Yemen. As he claimed he travelled with his uncle, an adult, and as he lives in Saudi Arabia lawfully, and as there is insufficient evidence of a real risk of his being deported to Yemen, HS fails to establish his claimed reasoning is credible.

72. HS when asked about this as part of the assessment process claimed that he had broken the law because he travelled on his own, but this was not supported by any country evidence, and that although he had claimed to have travelled with his uncle, he went through passport control on his own. The age assessment records:

"H account was unclear and confusing and this was explored again to ensure that the correct information was obtained. Amerjit (Assessing Social Worker) clarified with HS what he meant by leaving Saudi Arabia illegally. HS reproed that when he approached a travel agency which provided the Visa to Morocco he was 16/17 but this meant he could not travel alone, but the travel agency would make arrangements for him to get an appropriate Visa and the date of travel with a man who would make arrangements. Amerjit informed HS that this completely contradicted what he told us because he told us he travelled with his maternal uncle. HS reported that leaving Saudi Arabia is very complicated and that if he left with his uncle, he would have been charged a carers fee and they wanted to avoid that. HS reported that he and his uncle were on the same aeroplane but they entered Saudi immigration separately. Amerjit explained to HS that Saudi Arabia appears to be in a Proxy war with Iran and this would suggest that Saudi Arabia would on heightened alert, particularly with him being a Yemen national and therefore there was a high chance that he may be stopped and questioned by Saudi officials if it was illegal for a child to travel on their own. Amerjit informed that from his account there was now even a high risk of being stopped and it was unclear because he had already travelled with the paternal uncle to Kuala Lumpur. HS reported that money overrides the law and if you pay well you can pass. Amerjit asked HS what he was saying, HS gave no response. Amerjit ask HS if he was saying he bribed an officer. HS reported that the agency was paid, but he did not know the details. Amerjit asked if there was an agent and he confirmed there was in the agent told him which counter to go through.

73. HS also claimed that the second passport was obtained by an agent which is the passport showing the date of birth that he asserts supports his claim to have been born in 2002.
74. The age assessment records that HS had been inconsistent at times about his age and a number of matters were put to him to give him the opportunity to comment upon the same.
75. A further issue arises concerning the production of the birth certificate. It is noted that HS did not indicate that he had in his possession a birth certificate that he could produce as evidence of his claimed date of birth in the initial assessment process (even when asked) and that it was only following the publication of the initial age assessment, stating that in the opinion of the assessors HS was 23 years of age with the date of birth of 1996, that HS produced a birth certificate showing his date of birth as 2002.
76. HS was asked how he had obtained a birth certificate. He claimed that after he had been "fired" from the other home he occupied he contacted the Yemeni community and spoke about his problems, explained he was struggling to get proof of his name and age, was asked whether he had travelled in Yemen before which he stated he had, and claims to have been told that if he had travelled to Yemen more than once he could get the papers. HS confirmed that his reference to "being fired" was his been moved out of his foster accommodation.

77. HS was asked about the member of the Yemeni community whom he contacted which he claimed was the Director of Yemeni community, a Mr Ahmed Al Masri. HS claimed that this individual had told him there was a chance they could obtain his papers, but they would need time to contact the Yemeni Embassy. HS specifically claimed that Mr Masri was trying his best to get him the papers from Yemen and provided the contact details of this individual to the assessors. HS confirmed he met the named individual.
78. HS was asked whether he knew how Mr Masri had obtained a birth certificate to which he claimed he had told him that one of his relatives in Yemen could get the birth certificate if he had a relative there, and that his relative had emailed Mr Masri the documents that he had requested to show to the Yemeni Embassy. HS also stated he was in touch with a neighbour in Saudi Arabia including the cousin who he claimed a number of copy emails in his bundle originated from.
79. It is also noted within the interview records that those undertaking the age assessment tried to contact Mr Masri on the number and email provided by HS and left numerous messages that they wish to speak to him. A person claiming to be Mr Masri is recorded as having contacted the assessors denying what HS had claimed had occurred.
80. It is not disputed that HS did present a Yemeni birth certificate and that the Yemeni Embassy confirmed that the certificate is authentic, which is not disputed. The fact that a certificate may be in the correct format and have the appearance of a genuine document does not mean, in all cases, that the information contained therein is equally credible. The assertion in the grounds that WCC acted irrationally in not accepting the certificate as providing conclusive evidence of HS' date of birth has no merit in light of the lack of consistency in the evidence considered as a whole as recorded in the assessment documents. Reference is made above to HS only producing this certificate when he was advised that he was to be moved from his foster accommodation and not during any part of the early assessment even when asked whether he had any such documents.
81. Mr Greene referred in his submissions to the case of *MVN v London Borough of Greenwich* [2015] EWHC 1942 (Admin) in which it had been found that the claimant in that case was the age she had given, naming the age of 18. It is important, however, to consider the facts of that case as a whole. The summary of the judgement given by Mr Justice Picken is in the following terms:

'Where an age assessment was disputed, the role of the court is to enquire and, on the available evidence, to make a decision on the balance of probabilities. It was appropriate to have regard to a Home Office document entitled "victims of human trafficking - competent authority guidance". Specifically, the court should consider (a) whether Ends evidence as to the material facts was "coherent and consistent with any past written or verbal statements" and (b) how well it fitted together whether it contradicted itself. N's evidence was coherent and truthful. It also fitted together and was not self-contradictory. The inconsistencies in his accounts were fewer than suggested and, where they existed, with either capable of being explained or not so significant as to make a conclusion that he lacked credibility

either inevitable or even appropriate. N's evidence was also supported by the testimony of his most recent foster carer. Her evidence was compelling. She had vast experience as a foster parent as well as substantial experience as both a mother and a grandmother. She had also had direct experience of N over the course of more than a year. It was not appropriate to attach substantial weight to the conclusion which the social workers had reached in the age assessment process. It was not in doubt that they had tried hard to treat N fairly and that they had acted at all times in what they considered to be in his best interests. However, the age assessment was rendered unlawful by their failure to give N a proper opportunity to deal with certain adverse points. At their final meeting with him, they had begun by telling him that they had decided that he was over 18, preventing him from addressing certain important matters. Those matters included perceived inconsistencies in his accounts of his relationship with his father and the relationship between his mother and father, and in what had been said about his computer skills. He should also have been given the opportunity to deal with matters more generally. In particular, the social workers were clearly sceptical that a boy of 13 could have made the journey which N described, including the periods of detention in Hungary, without displaying signs of trauma. That was another important matter which should have been raised with N in such a way as to enable him to comment and at a time when the final decision had not yet been reached. The fact that he was not given the opportunity was a significant omission, R (on the application of Z) v Croydon LBC [2011] EWCA Civ 59, [2011] P.T.S.R 748 applied. In the circumstances, it was appropriate to hold that N's data birth was the one he had given, namely 13 May 1997.'

82. There are material differences between the facts as held in MVN and the current case. Whilst HS provided an explanation for discrepancies that have arisen in his evidence it is clear that his evidence has not been coherent and consistent and, as identified in the age assessment, is in places contradictory, which HS' explanations do not satisfactorily resolve.
83. The evidence of the supporting witnesses is noted but it has been found above that the criticisms of the age assessment are without merit which has not been shown to be unlawful or one which cannot be given proper weight. Although the age assessment was undertaken in two parts, and a conclusion was arrived at concerning HS' age at the conclusion of the first part, as a result of HS producing evidence that he claimed did not exist and the decision by WCC to undertake the assessment incorporating this new evidence, the birth certificate, it is not made out the assessment team approach the second assessment with a "closed mind" or effectively placed a burden of proof upon HS to show that their initial assessment was wrong. It is not made out it was unfair for the original assessment team to undertake the second assessment especially as they were known to HS and already had a substantial volume of uncontentious material.
84. In relation to Yemeni birth certificates there is information within the public domain including an article written by UNICEF in 2018 recording that 83% of children in the Yemen do not possess a birth certificate and that despite one of the key activities carried out by UNICEF's Child Protection programme in the country being to support birth registration, every year despite there being over 900,000 new-born babies across Yemen those registered still remain a few.
85. Yemen is therefore not a country that has a centralised register of births deaths and marriages similar to that operated in the United

Kingdom or a number of other countries. There was no evidence that HS approached an official body or register to obtain evidence of his birth. It cannot be said that such material did not exist especially if his father had obtained a passport which included HS on it when evidence of his birth would have had to have been provided. There would no doubt have been, at the relevant department of the government in Yemen, evidence relating to the issue of the passport yet none has been provided.

86. HS did not present himself to the Yemeni authorities to obtain the birth certificate. His account of obtaining the certificate with the assistance of the Director and his cousin is recorded in the evidence. HS also states that he was told a birth certificate could be obtained for £200.
87. It is recorded in the age assessment that those undertaking the assessment were eventually contacted by a person purporting to be the Director of the Yemeni Association who denied HS' claims, as noted above.
88. There is also within the public domain on the website of the US Department of State - Bureau of Consular Affairs in relation to Yemen the following information:

Birth Certificates

Available

Fees: 300 Yemeni Rials

Document Name: Birth Certificate

Issuing Authority: Ministry of the Interior, Civil Status Authority and Civil Registry

Special Seal(s) / Color / Format: The current document is a 5 x 8 inch green, red, pink, and cream colored card featuring embedded fibers, UV images, and offset printing. Older documents lack standardization. Varieties include solid-color green, orange, or cream 5 x 8 inch cards with no discernable security features. In addition, older documents may also be printed on approximately A3 or A4 size paper of various colors. Documents may include payment stamps with a wet seal on top.

Issuing Authority Personnel Title: Director of Country Registry

Registration Criteria: Payment of fees

Procedure for Obtaining: Apply at Civil Registry

Certified Copies Available: Certified copies are available

Alternate Documents: There are no alternate documents

Exceptions: There are no exceptions

Comments: Most Yemenis do not register births, marriages, divorces, or deaths when they occur. Certificates are issued at any time after the event on the basis of information provided to the civil registry office by the person requesting the document.

89. The observation on the website that most Yemenis do not register births, marriages, divorce, or deaths, when they occur is corroborated by UNICEF. As there is no evidence of a formal process by which births are registered it is feasible that certificates can be issued at any time after the event. It is therefore not incredible that HS was able to obtain a birth certificate at a later date.
90. What is of concern is the information contained in the certificate in relation to date of birth. There is no evidence of an official contemporaneous record of his birth accessed to obtain the details for the certificate. The claim the certificate was obtained with the assistance of the Director of the Yemeni Association has been denied by that person. I find it is more likely the certificate was obtained by HS providing information to a cousin who arranged for the certificate to be issued using the date of birth provided by HS. I find this casts sufficient doubt upon the reliability of the date contained in that document.
91. I accept the birth certificate may relate to HS by name and may be in format that the Yemeni Embassy say is genuine, but I do not accept the birth certificate is determinative evidence of HS' date of birth.
92. HS asserts any implausibility in relation to how and when his birth certificate was obtained is insufficient to be trumped by any inconsistencies in the age assessment, but I reject this submission. There is on balance sufficient evidence to show that not only is the account in relation to the birth certificate implausible but that the inconsistencies identified in the age assessment further add to the lack of credibility in HS' account and that undermined his claims and adds considerable weight to the case advanced by WCC.
93. I accept that the age assessment process is an inexact science, and the margin of error can be as much as five years either side. This is not, however, an age assessing an individual going through puberty and WCC clearly had significant reasons for doubting HS' claimed age, a concern also recorded by British Transport Police who first encountered HS when he arrived in the UK at the Victoria Bus Station.
94. The supportive evidence provided by HS' tutor, both written and oral, refers to her observations of his demeanour and conduct individually and within her teaching group leading to her belief that he is not a mature individual and is likely to be of the age he claims. This, as with all other supporting witnesses for both sides, is not a conclusion reached as a result of the detailed analysis undertaken as part of the age assessment process or this hearing, and there is no discussion in the evidence relating to how a person such as HS who has no experience of living in the UK should or would be expected to behave within a peer group. The evidence of WCC's live witness suggesting that HS' behaviour of staying out at night, staying with his friends, going to the pub, is noted, but that is what one would see with young

men at the age HS would be whichever parties' position is correct. It is also important to bear in mind that individuals mature at different rates. Young adult men continue to mature into their mid-twenties and while individuals tend to reach physical maturity during mid-adolescence, and intellectual maturity by the age of 18, emotional and social maturity continues into the mid-twenties.

95. Mr Hoar in his submissions referred to the decision of R (on the application of GB) v Oxfordshire County Council IJR [2015] UKUT 429 (IAC) which found that the duty of the tribunal is to consider the evidence as a whole including documentary evidence relied upon even where there are a number of documents produced purporting to verify the claimed age. I have done so.
96. There is clear evidence of HS being inconsistent in his evidence. Changes to an individual's account or recollection could have a number of explanations including genuinely forgetting what had been said earlier, an individual's age or inability to recall as a result of medical or other issues, an attempt to embellish, genuine confusion, or inability to recollect in sufficient detail the account that the individual had been told to rely upon in support of any claim by an agent.
97. I do not find it made out that the age assessment was based predominantly upon HS' demeanour. This is a far more rigorous investigation.
98. I also heard evidence from another of HS witnesses Gloria Geretto, a Refugee Youth Worker with Barnet Refugee Service, who gave evidence of her interaction with HS whom she met in June 2020 when he requested advocacy and support with his age dispute case. At [8] of her witness statement Miss Greco writes:
 8. Indeed, throughout my regular interactions with the Applicant, he repeatedly voiced his frustration and disappointment over the continued refusal of LA to believe his account. This issue, despite severely affecting the Applicant's mental health, has never stopped him from continuing to challenge the age decision and his relentless perseverance and stubbornness in fighting L.A.'s conclusion is, in my view, a significant indicator that his account is genuine. I believe no one would deliberately undergo such extenuating and highly distressing process and less motivated by a strong desire to seek a just resolution in this case. Today, the Applicant's refusal to accept L.A.'s decision only serves as a powerful reinforcement of his belief that the conclusive decision was erroneous.
99. I do not doubt that what is recorded in the statement is what Ms Geretto genuinely believes. She comes across as a genuinely caring person who will do her best to assist those in need. HS claims that he knows his date of birth as he was told this by his mother when referring to events in her life by reference to his age at that time. It is plausible that in a society where the spoken word may be more important than the written word or a posting on social media that such reminiscence may occur. That is not, however, determinative but one factor to be considered with all the others. There are many reasons why individuals may claim their account is correct other than the fact that it is and that other accounts which contradict their position are

wrong. The recent decision R (on the application of WA (Palestinian Territories) v Secretary of State for the Home Department and MIND [2021] EWCA Civ 12 is an example of an individual claiming to have a date of birth provided to him by his grandmother which was not accepted by the Secretary of State based upon an age assessment, going on a hunger strike and threatening to kill himself unless the Secretary State agreed to amend his biometric document which reflected the assessed age and date of birth and replaced it with the date of birth he claimed was his correct date of birth. There is no evidence WA's claimed date of birth was the correct date of birth. In HS' case it was also clear that a substantial foundation for the belief of Ms Geretto is her view that HS would not put himself through what he had experienced unless what he was claiming is true. Those involved in the field of immigration and asylum know there are various reasons why individuals choose to travel to the UK some in very harrowing situations, other than what they claim about their circumstances is true. Many individuals who have spent months in the camps in France, possibly suffering during their journey to reach that venue, who manage to enter the United Kingdom, when a detailed examination of their claim is made are found not to be credible and to be no more than economic migrants.

100. Drawing the threads of the evidence together; HS claims a date of birth of 2002 giving him a chronological age of 19 at the date of this hearing. WCC have assessed his date of birth as 1996, the same date appearing in the passport HS claims was fake, making him 25. I find when assessing the evidence as a whole that HS has not provided sufficient evidence to established that his claimed date of birth of 2002 is credible, reliable, or on the balance of probabilities accurately reflects his true birth date. I do not accept HS' claim that the passport containing the 1996 date of birth is false. I find that the document containing a date of birth of 2002, being the birth certificate and any passport document using this date of birth, is not to be genuine on the balance of probabilities. I do not accept it has been made out that the age assessment is not Merton compliant. On the balance of probabilities I find the age assessment accurately reflects HS' date of birth as 21 April 1996.
101. I find, on the standard of the balance of probabilities, that HS' date of birth is 21 April 1996 and I make a declaration to that effect accordingly.
102. The parties have 14 days following the receipt by them of this judgment to make further submissions in writing as to the terms of any further orders sought and, in particular, as to the question of costs. In the absence of any agreement on these issues between the parties, I will determine any issues outstanding on the basis of the written submissions.

Signed.....
Upper Tribunal Judge Hanson

Dated 30 December 2021