



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

R (on the application of L) (by his litigation friend Andy Waite) v Westminster City Council (AAJR)  
[2013] UKUT 00566 (IAC)

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 27th July 2013**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**R (L) BY HIS LITIGATION FRIEND ANDY WAITE**

**Applicant**

**and**

**WESTMINSTER CITY COUNCIL**

**First Respondent**

**MINISTRY OF JUSTICE**

**Second Respondent**

**Representation :**

For the Applicant: Mr C Buttler, instructed by Scott, Moncrieff and Associates LLP

For the First Respondent: Mr B McGuire QC, instructed by Creighton & Partners

The Second Respondent was not represented and did not appear

**JUDGMENT**

1. The applicant has applied for judicial review of the first respondent's (hereafter the respondent's) decision of 14 February 2013 assessing his date of birth as 27 December 1992 and accordingly that he was over 20 years of age at the date of decision. The applicant seeks firstly a declaration that he is a child and secondly a declaration as to his date of birth, a date to be determined by the Tribunal.

2. It is settled law that there is no burden on either party in an age assessment judicial review. My task is to assess the evidence and decide on a balance of probabilities what the age of the applicant is.

3. Before I set out the evidence and my conclusions on it, there was a preliminary issue concerning an application for an adjournment, previously made on papers, and renewed by Mr Buttler at the hearing. My determination of this point was as follows:

“JUDGE ALLEN : The key question as it seems to me in this matter of whether or not there requires to be an adjournment in this case in order for the issue of whether or not the applicant has been trafficked to be properly investigated and for him to have the recovery period set out in the Convention is the question of the potential impact on the age assessment proceedings of the trafficking issue and it is the matter which is very much at the heart of paragraph 11 in particular of the applicant’s skeleton argument. Mr Buttler makes the point that the hearing cannot proceed fairly unless the trafficking issue has been addressed, on the basis that the account that the applicant might give at that point would have to be seen and have to be reflected in a proper assessment of his age rather than doing it on the basis of the evidence from the applicant that exists so far.

2. There is no necessary link between an age assessment, which is the function of this hearing, and the question whether the person whose age is being assessed has been trafficked. A person can be trafficked at any age. The account given by a person, and the credibility of his account, are relevant to the assessment of his age, though of course there are a number of other matters to be taken into account, in particular the views of the professionals and others who have observed him and commented on such matters as his appearance, his demeanour and his interaction with others.

3. As things stand, there is a referral to the UKATC, which may or may not decide that it is reasonably likely that the applicant has been trafficked, thus triggering the recovery and reflection period provided for in the Convention. Even if that occurs, it is conjectural as to whether the applicant will co-operate with the process and, even if he does, it is conjectural as to whether he would say anything different. And, whatever he may say will have to be considered in the round with his previous evidence: it can not be taken in isolation. I disagree with Mr Buttler’s assertion in his skeleton argument that the fact that the applicant has never claimed to be trafficked is irrelevant. Clearly a trafficked person may, for understandable reasons, not state that they have been trafficked, but their failure to mention it is a matter that must require consideration and assessment. A further point, not major, but certainly not irrelevant, is the fact that the criminal proceedings against the applicant have been stayed behind these proceedings, and an adjournment would cause a further delay there.

4. For all these reasons I have concluded that it would not be unfair to proceed with the hearing in accordance with Rule 2 of the Tribunal Procedure (Upper Tribunal) Rules 2008. I consider that to proceed is in accordance with the overriding objective of dealing with cases fairly and justly and that the avoidance of delay caused by an adjournment is compatible with proper consideration of the issues.”

4. The hearing proceeded without any oral evidence from the applicant and indeed without a statement from him. Mr Buttler said that the decision that the applicant should not give oral evidence was on the instructions of the litigation friend. On the applicant’s side the view was that he needed the period of recovery and reflection envisaged in the Anti-Trafficking Convention before giving an account, and as a consequence it was not proposed that he give oral evidence. It had not been claimed by Mr McGuire that the applicant had to give oral evidence, and the Tribunal had not directed his attendance.

5. Mr McGuire made the point that the Tribunal was placed in real difficulties without the applicant’s attendance, and it was difficult to know what his case was and indeed whose case was being put forward. Mr McGuire cited what had been said by Holman J in *F v Lewisham* [2009] EWHC 3542

(Admin), including the statement at paragraph 30 that such fact-finding hearings could not ordinarily take place without some involvement of the applicant and engagement of the applicant with the court. It was accepted that the extent to which and the manner in which a applicant participated or gave evidence was quintessentially a matter for the judge at the hearing itself.

6. Mr Buttler drew my attention to the decision of Judge Pearl in [KN and London Borough of Barnet \[2011\] EWHC 2019 \(Admin\)](#). In that case it had been recommended that the applicant was unfit to attend court and consequently the judge was required to make a decision on her age and if possible her date of birth without the advantage of seeing her and hearing her give evidence. The judge made the point, at paragraph 64, that:

“An assessment was just that; no more than an opinion, which can be best achieved by professionals trained in the various fields, and not just trained as social workers, obtaining a view of the person over a number of sessions.”

7. I am confronted by the same difficulty as was Judge Pearl. I was not asked to direct the applicant’s attendance and the hearing proceeded all along on the basis that the applicant would not be giving evidence. Inevitably this causes some difficulties, bearing in mind the relevance of the applicant’s credibility and his personal history as part of the factors to be taken into account in assessing his age. It is not, however, an impossible task. It is common ground that the account he has given to different people varies somewhat, and I shall have to consider what those variations are and what their relevance is for the assessment as a whole. Those matters reflect both on his credibility and on what exactly his personal history is. They require to be factored into the overall evaluation, and I am confident that although I have not had the opportunity to see the applicant give evidence and observe him in terms of assessing his age and his demeanour first hand, it seems to me that the views of the people who have observed him over a much longer period and who are trained to carry out such observations are of particular significance in commenting on such matters as the applicant’s demeanour and the age he appears to be, which are relevant to the overall assessment. It is I think in any event common ground that his physical appearance is very far from being decisive in this case.

8. The applicant’s account can be gleaned from the evidence of the main witnesses in this case, and therefore I will set out that evidence below and thereafter come to conclusions on the evidence of the applicant and also the evidence of the other witnesses, Mr Coulson, Ms Francis, Mr Shamyarira and Mr Brown.

9. Since it is the decision challenged, I think it is proper to begin with the age assessment and, following from that, the written and oral evidence of the witnesses. The age assessment was carried out on 23 January, 7 February and 14 February 2013. It was carried out by Mr Brown, who describes himself at paragraph 1 of his statement as a senior practitioner employed by Westminster City Council, children and families team in the access and assessment service. He obtained his MA in social work in 2009 and has been employed by Westminster social services since then. He has carried out a number of assessments of both families and children and young people. He had never carried out an age assessment previously. It was carried out jointly with Maz Mannan, a senior practitioner employed by Westminster City Council, children and families in the Westminster Accommodation and Leaving Care Team (WALC). Mr Mannan had completed ten age assessments, having been a qualified social worker since 1994, and since qualifying had specialised in working with young people and young adults within the 16 to 25 age group.

10. It is relevant to note at this stage that though we have Mr Brown's handwritten notes from the assessment, unfortunately Mr Mannan's notes appear to have been mislaid and were never put on the system. There is no statement from Mr Mannan and I did not hear oral evidence from him.

11. The age assessments were attended by an independent observer from the Refugee Council, Ms Sulimani, on the first two occasions and Ms Mortley at the third interview. It was explained that they acted also as appropriate adults. There was also a French interpreter on each occasion, and all three interviews were also attended by a student social worker.

12. The applicant had first come to the attention of the respondent when he was arrested for theft of a mobile phone from a shop in Oxford Street on 9 November 2012. At that stage he gave a date of birth that made him 13 years old and he gave an address in Haringey. Enquiries were made and it seemed that the person, said to be his uncle, with whom he said he was living, was known for approximately twenty offences, and the applicant said he did not have his uncle's telephone number. The judge was not satisfied that he should be bailed to that address, and the respondent carried out further interviews which caused it to think that he was older than 13 and potentially an adult. The applicant then telephoned an adult male who was English and said to be very well-spoken who hung up when the Youth Offending Team (YOT) explained who they were. The applicant then provided a further address in Kingston Vale and a telephone number for an adult male who he alleged was a friend of his uncle and that person was advised to attend the court the next day but did not do so. The court took the decision that the applicant was 13 years old and vulnerable and remanded him to the respondent. He was initially placed into foster care but subsequently it was concluded that that arrangement was not working and he then went to live at the Cardinal Hume Centre, a 32 bed hostel for vulnerable young people aged 16 to 21, on 11 January 2013.

13. In the assessment it is noted that the applicant claimed to be a 16 year old boy from France (claiming a date of birth of 27 December 1996) with an Algerian mother and French father. It was said that he had a youthful appearance and had facial hair on his chin. He had been reported by the foster carer to shave prior to meeting with social services, and the foster carer believed that he did this in a bid to appear younger. It was considered that he was very focused on his appearance and dressed in a style one would associate with someone older than 16 and in his late teens and early 20s, i.e. fitted jeans and jackets. He had been observed to wear a watch and wedding band, and during an appointment with UKBA that Mr Brown accompanied him to on 14 January 2013, he said that he was removing his ring and watch because they made him look older.

14. His demeanour was described in the assessment as very assertive and confident. His body language indicated that he was relaxed and he was able to maintain eye contact with both interviewers. At times he responded curtly to the questions he was asked and on several occasions lost his temper. He gave the impression that he was not taking the process seriously. He was argumentative and challenged the interviewers on several occasions, which was not in their collective experience the behaviour of a 16 year old, but more likely someone who was older and more consistent with the assertion of colleagues that he was aged in his 20s. He was confident and at times flippant which gave an impression of arrogance and unwillingness to engage fully with the process. Again it was thought not to be consistent with the interaction expected of a child of 16. At one point in the second interview, having given a detailed account of how he came to the United Kingdom, he said that one day he would tell the real story of what happened.

15. He said that his mother was Najia Djamili, aged 55, an Algerian residing in Algiers. His father, Krime Saha had died in January 2013 and was approximately 54 when he died. According to the

applicant his father was French and lived in Bordeaux until his death. He referred also to a sister aged 30 living in Algeria with her husband and three children, and another sister aged 22 living in Bordeaux with her husband. He also had a maternal half brother who lived in Malaysia with his wife and children and three paternal uncles and four paternal aunts all living in Algeria. He had provided contact information for his mother in Algeria but efforts made to contact her had been unsuccessful apart from one occasion when she answered but the line was poor and the call was abandoned. There was reference to the fact that a YOT worker and a Cardinal Hume hostel worker had managed to speak to the applicant's mother and she had claimed he was 16 years old. On several occasions he had given permission for social services to contact her but only after he had spoken to her first and would not say why this was required to happen which led to concerns that he was telling his mother what to say to professionals.

16. The applicant said that he was estranged from his father prior to his father's death. He said his passport was in his father's possession and because they were estranged he could not get it back. He had previously informed professionals that other family members could establish contact with his father to obtain his ID documentation but this had not occurred. He claimed not to know his father's address at which he had resided for over a year, which was considered to be improbable.

17. There were doubts as to whether Mustapha Moussaoui, who he said was his mother's half brother and with whom he spent fifteen days living in London when he initially arrived, was actually a relative as, he had disappeared when the applicant was accommodated by the local authority and he had not mentioned him as a relative when asked about family members. He contradicted himself about friends in London, at one stage saying he knew no one but at other times mentioning friends within the Algerian community. He had been arrested with an older Algerian male who he claimed was a friend from France.

18. He had claimed to the YOT that he was married to a 23 year old girl from Canada. He had been seen to wear a wedding ring but refused to answer questions about what it signified and had been observed to remove the ring at various times when either it was recently commented on and when he wanted to present as younger. He had also informed social services and other professionals that he had been in a relationship with a girl from London who was 23 years old and who was aware that he was 16, which was regarded as unlikely.

19. He claimed to have been born in Bordeaux where he was brought up by his mother and father and living there also were his two sisters. It was noted that checks had been carried out with the French Embassy using the name and date of birth provided and there was no record of him, nor any record of the family members with whom he claimed he had lived in France. He said he did not remember the address of the house he grew up in.

20. He said he lived with his family in Bordeaux until his parents divorced in 2006. He had previously referred to there being domestic violence between his parents but did not mention this at the age assessment interviews. At that point he moved to Algeria with his mother and his sister Sarah and maternal grandmother, and they lived in Algiers. He said he could not remember the address of the flat in which they lived. In the second age assessment interview he claimed he stayed in Algeria until the end of 2010, but in the third interview he claimed he moved back to France in 2008, having visited briefly in 2007. After he returned to France he moved in with his father in Bordeaux, but he said he chose to leave Algeria as he did not like it there and travelled back to France on his own. In a letter provided by his mother it was said that the applicant made the trip from Algeria to France with his father. According to the applicant his father was not happy that he had come to live with him and they

did not get on and on 20 May 2011 he decided to move in with family friends in Paris. He claimed that he did not tell his father he was leaving and did not bring any form of identification with him. He claimed to be unable to remember the address he was living at with his father. He said the connection between himself and the family he stayed with in Paris was that the grandmother of the family knew his father. He said that he slept at their home and spent his days with friends in the Barbes district of Paris which has a high immigrant population.

21. He claimed that he first had the idea of coming to the United Kingdom in August 2012, because he was unhappy in France "with his parents" and because he knew somebody living in London. He had no plan of what to do when he arrived and no idea of how long he wanted to stay. He did not contact his father to request the passport that he knew he needed to enter the UK and said he did not care that he had no valid form of ID. He provided a quite detailed account of the arrangements made for him to come to the United Kingdom and the fact that he paid 800 Euros which he had saved from monthly payments of £300-£400 his mother sent him.

22. He said that he stayed with his uncle Mustapha Moussaoui for fifteen days, and after a week his uncle advised him to go back to France. He was arrested for theft of a mobile phone from a shop on Oxford Street on 9 November 2012 and stated that he got himself arrested deliberately because he did not want to live with his uncle any more. After his arrest he claimed that his uncle had moved to Oxford and he was no longer able to contact him and the address of the uncle was visited and found to be empty.

23. He continued to claim that he was 13 years old until 13 December 2012 when he began to claim he was 15 and turning 16 on 27 December 2012, the same day and month as the earlier date of birth he gave. This coincided with the YOT's phone conversation with his mother when she said he was 16. He had refused to answer when he was asked why he had lied about his age.

24. After coming into the care of Westminster the applicant was arrested on two occasions, on 24 January 2013 for theft of a phone and handling stolen goods (two other phones) for which he received a reprimand, and on 4 February 2013 for theft of a handbag and assault of a police officer for which he was given a referral order. The fact that he was frequently absent from the foster placement and late returning caused that placement to end and him being moved into the hostel.

25. The applicant had claimed to have attended a primary school in Bordeaux until 2006 when he moved to Algeria but claimed he was unable to remember the school's name, and when eventually he gave a name and a postcode this appeared to refer to the "Le Bouscat" suburb of Bordeaux rather than a school. It was considered implausible that he would not know the name of the school which suggested he refused to give it as any checks carried out would reveal his actual age. He said that he did not attend school while he was in Algeria. After he had denied attending school in Bordeaux he was reminded that he had told professionals in an earlier interview that he had been enrolled on a vocational course and he then changed his mind and told those present he had been enrolled on a course in "Infographie" (computer graphics) three to four years ago. It is said in the age assessment report that in France the earliest age you can begin a vocational course is 15 which means that if he had enrolled on it three to four years ago he would be a minimum of 19 years old. He claimed not to know the name of the institution at which he was enrolled which was thought to be designed to prevent professionals from contacting the institution and verifying his age. He claimed to have stopped learning English and French at age 11 but this did not appear consistent with the levels of French and English he had shown that he possessed. It was thought that if he stopped learning

English and French at age 11 his command of those languages could only have been acquired through the life experience of somebody significantly older than 16.

26. During the assessment it was considered to be clear that he was quite confident and self-aware and demonstrating a level of maturity and independence. It was uncertain what he did during the times in the day when he was away from the foster placement, however, he was taking care of himself and providing his own food. The hostel when he moved there reported that while he was there he did not engage with any support offered which suggested he did not need support to live independently and was thought to be further evidence that he was older than he claimed to be.

27. It was noted that he had access to money, and since social services had become involved he had regularly bought himself new clothes in addition to an iPhone 5 and a brand new laptop. It was said not to be entirely clear how he had acquired this money, though at various points he had claimed to have worked in an internet café but also said that his mother, who he said worked for an Algerian airline, wired him £300 per month via Western Union. He said that this money was sent to an adult friend of his who collected it on his behalf and handed it over. The applicant was unwilling to give the name of the friend or allow professionals to contact them. When asked what he did when his money ran out he replied "don't you worry". He said he would be able to call his mother and ask for more but was not prepared to discuss the matter further.

28. It was noted that he smoked tobacco on a regular basis and consumed alcohol more than once a week. He admitted to smoking cannabis more than twice a week and had since admitted to taking MDMA which he bought from another resident at the hostel. He was said to be sexually active and to have been involved in a relationship with a 23 year old woman since being in London and to have admitted to have been in a relationship with a girl who lived in Canada and was also 23. It is said that he had claimed to professionals that he was prescribed Clonazepam by a psychiatrist in 2007 but it was thought given the date of birth he had given that it was unlikely that a child of 9 would have been prescribed this kind of medication at such a young age.

29. It is said that a variety of professionals with whom he had come into contact had estimated his age as being older than he said. The foster carer with whom he was placed between 15 November 2012 and 11 January 2013 maintained that he was an adult, possibly in his twenties. It is said that the doctor who examined him for his Looked-After Child (LAC) medical estimated his age as 18, members of the YOT who had worked with him including his YOT worker believed he was 18 or older, and the Chelsea and Westminster Hospital doctor who carried out a child protection medical examination believed he was 18. During an appointment with YOT he claimed to a YOT worker when he was claiming to be 13 that that was only his age in England and he was in fact 21 years old. He had been asked to contact the French Embassy to obtain ID documentation in order to prove his age and again was asked to do this during the age assessment but refused. He would not give a reason for this. Checks were carried out with the French Embassy using the name and date of birth he had provided and there was no record of him. It was said that if he were a French national they would have a record of him under the date of birth provided. The same checks were carried out for his parents and siblings and there was also no record of them. He had been observed to use pseudonyms and different dates of birth. He had previously asked the social worker to contact his phone network and use the date of birth 27 December 1991 and had been observed to use that date of birth when changing the settings on his phone.

30. The analysis of the information again led the assessors to conclude the applicant was believed to be over 20 years of age and his date of birth was estimated to be 27 December 1992.

31. Clearly it will be necessary to return to this assessment in due course. Next however I shall set out the written and then oral evidence of the four witnesses.

32. The first witness was Richard Coulson. He has provided a statement dated 6 April 2013. He was the interim housing manager at the Cardinal Hume Centre where the applicant has lived, until 17 April 2013. The applicant was placed into the care of the centre on 11 January 2013 by Mr Brown. It was as a consequence of the applicant not getting on with the foster carer.

33. Mr Coulson has worked in the field of social care for 20 years, specialising in mental health, but having also worked with challenging behaviour, street homelessness, substance misuse, young persons and refugees and asylum seekers. He has operated as a manager since 1998, working in hostels, supported living and registered care environments. His management role at the centre included supervision of staff, review of standards of support planning and risk assessing, and generally the promotion of good practice in the delivery of support of all of their service users.

34. In his statement Mr Coulson described the applicant's history as complex and said that what information he had about him had been gleaned through his social services paperwork, conversations with the applicant, conversations with third parties including social workers, his YOT worker and his mother as well as own interactions with him and recorded notes of other staff members at the Cardinal Hume Centre. He noted that the applicant's account of his life and background had not always been consistent, but he has consistently maintained that he is only 16.

35. With regard to the applicant's history, the applicant's mother had confirmed in a letter that she abandoned him when he was only 18 months old due to severe domestic violence perpetrated by his father who was an alcoholic and drug user. She confirmed that the father was a French national. The applicant had informed Mr Coulson, and his mother confirmed, that the applicant's father was involved in the creation/installation of swimming pools and made a good living out of this. He was reticent about his father. He described not going to school in Bordeaux and simply being given money by his father to keep himself occupied. He talked about meeting "older men" with whom he smoked cannabis from an early age, and Mr Coulson considered that that raised questions about abuse. He had also admitted involvement with the police in Bordeaux which might be the reason why he had been unwilling to provide more detailed information about his background or upbringing. He initially said that he stayed with a half-sister whilst in Paris but had subsequently informed his welfare solicitor that he did not have family in France and the people he stayed with were "family friends". He claimed that he came to the United Kingdom to join his uncle Mustapha who he later admitted was not a relative but someone his mother knew from childhood.

36. Mr Coulson noted from his records that he had immediate concerns that the applicant might have been trafficked because of the circumstances of his arrival in the United Kingdom. He initially maintained distance from staff and other service users and avoided contact. He would leave the centre early afternoon and return mid-evening. When attempts were made to engage him he cited language as a difficulty but following an ESOL assessment it was agreed that in fact he had a good level of spoken English although his reading and writing were poor. He responded very well to the employment of an agency worker, Abasse Djamaldini, a French national, and began to interact more and provide more information. As regards his regular disappearances he said he had to see a friend in Haringey and had things to do there. He made statements that initially appeared grandiose, for instance stating that he "had his plans" which they would learn about when he was ready and how he was either going to Sweden to join his mother or to Canada to join his girlfriend. Over time he had become more clinging and dependent on staff at the hostel and showed no ability to budget, prepare



meals, keep appointments or engage constructively even with the limited opportunities they were able to offer given his lack of ID and his irregular status.

37. On 29 January 2013 he admitted to Abasse that the noticeable change in his mood was due to the fact that his mother had told him of his father's death ten days previously. Following the applicant's attendance at Highbury Youth Court on 4 February 2013 Mr Coulson was informed by Sam Brown about concerns as to the applicant's mental health and possible substance misuse and these issues were again raised with Mr Coulson by the applicant's YOT worker Steffi Thorhauer, in a telephone conversation on 13 February 2013. Mr Coulson considered that since the applicant's arrest at the beginning of March 2013 his mental health had noticeably deteriorated. He appeared confused and sometimes incoherent in conversation and veered constantly between tearfulness and veiled aggression. Other service users had talked of him "wandering in the corridor muttering to himself" and also of sexually inappropriate language/requests. When recently stopped by the police he was alleged to have exposed himself to demonstrate that he was only 16.

38. Mr Coulson went on to express his concerns at the possibility that the applicant had been trafficked either on the basis of sexual trafficking or financial trafficking or possibly both. He referred also to a more recent incident when the applicant had ripped off his t-shirt and attempted to hang himself whilst in custody on 28 March 2013 after which he was placed on suicide watch. A referral was made to the NSPCC's anti-trafficking team, and on 4 April 2013 Mr Coulson spoke to Terence Shamuyarira about his concerns for the applicant and understood that his case was being considered.

39. Mr Coulson went on to state that while he was aware that the applicant had not always told the truth or the whole story of his background, he did not believe he was lying about his age. He was aware that Westminster had never in fact spoken to the applicant's mother to ascertain whether she verified his account but noted that they suspected that she would have been told what to say by the applicant had they contacted her. He wanted to clarify that his contact with the applicant's mother did not occur until 16 February 2013 which was two days after they were told of the decision on the age assessment and that it was clear from their conversation with her that she had not been contacted by anyone else, let alone the YOT worker who Westminster had cited as having spoken with her. The impression when they spoke through his French speaking colleague Abasse was that the applicant's mother was genuine as she appeared to know very little about the applicant's circumstances since coming to the United Kingdom. Mr Coulson had offered to provide Westminster with a copy of the applicant's mother's letter to them but they had said that they were not interested in her comments unless she was able to provide documentary evidence of the applicant's identity and age. She had confirmed that the applicant's father had the applicant's documents and Mr Coulson considered this to be perfectly plausible in the circumstances. Mr Coulson went on to conclude that there were significant issues around the applicant's state of mental health which he felt must be investigated. Both he and his colleagues who had daily contact with the applicant believed that he was a particularly troubled and vulnerable young lad who was in need of care and support and who they believed to be a minor not much older than his claimed age of 16.

40. In his oral evidence Mr Coulson confirmed that what he had said in his statement was true to the best of his knowledge and believe. He had had experience of working with trafficked people. He had worked as community manager of a refugee service where there were trafficked individuals. There were LGBT individuals between 18 to 65 but mainly 18 to 25, who were fleeing sexually-based violence and several had been trafficked.

41. Mr Coulson made it clear that he could not comment on anything after 17 April 2013 when he had left the Cardinal Hume Centre. Initially the applicant had been reluctant to have contact but eventually had agreed to come and see Mr Coulson daily, even if only to say hello. He said that the applicant was not a particularly trusting or open person. He had seen him daily for the last two months or so of his time at the centre. He had had trafficking concerns from his experience of working with young men who were sex working. The applicant had matched the pattern fairly well with regard to such matters as associating with older men, suffering from scabies, which was a consequence of poor hygiene that could be via sexual conduct, and the fact that he left early and came back later. Later on he had had more concern that the applicant had been trafficked as a pickpocket. He had had concerns about such matters as the applicant asking for access to adult websites, and going to Finsbury Park which certainly used to be a gay area, and he would come back under the influence of pills he said he bought there, and was agitated and quite uninhibited. He followed females, muttering, and had asked females for anal intercourse. This had tended to support Mr Coulson's earlier views about sex trafficking or at least the fact that he was involved in some sort of sexual activity with which he was not happy. It is also the case that the applicant adhered to fixed hours when he was out and was adamant about the timing and was very rigid, which indicated that he was not comfortable saying no to certain people. He had told Mr Coulson that he went to Haringey to collect money from people which had been sent to them for him by his mother. This had seemed very odd to Mr Coulson as it seemed his mother did not have money and had little contact with him, and he did not understand why she would be sending it to a man in Haringey.

42. The applicant had told a lot of different stories and Mr Coulson had not believed what he said about going to Canada or Sweden. His concern was about the cost and the fact that he did not have travel documents. With regard to raising the 3,300 Euros that would be needed, he had said he had his plans, in a very teenage way. Mr Coulson was concerned about debt slavery. It had never been clear whether the applicant had paid to come to the United Kingdom. When he had begun to interact with the staff at Cardinal Hume he was totally chaotic. He did not keep appointments and did not cook and could not budget. He did not turn up to any ESOL appointment. He took the age assessment decision very personally. He referred to Mr Coulson as "father" and to Debra Francis, Mr Coulson's successor at the Centre, as "mother". He was tearful and asked that they would look after him. Mr Coulson thought he was being exploited by others in the hostel. They would get him to do silly things and it was very childish behaviour.

43. As regards Westminster's conclusion that he was assertive and capable, Mr Coulson did not think that the applicant was capable. He did not have any daily living skills. Mr Coulson never found him assertive. He was sometimes sullen and obstructive. He had no understanding of cause and effect and had told Mr Coulson he had just said what he thought at the interviews. At the time when the applicant was in custody and banging his head on the cell wall and quite disinhibited, the YOT worker Steffi had expressed concerns about his mental health. He had raised the issue of whether or not the applicant had been exploited for sex purposes with Sam Brown after a couple of days but Mr Brown had not agreed. Mr Coulson suspected that possibly the applicant had a long history of abuse. There were serious concerns about his statements and his wandering around and smoking cannabis with older men at the age of 9 or 10 and his father being an alcoholic and probably not a very good guardian. He had come to the United Kingdom and met and stayed with a criminal. As regards the fact that Westminster said his behaviour in the United Kingdom indicated that he was an adult, Mr Coulson thought that one could not say that because he was with older people either he was being abused or that he was an adult. Mr Coulson thought he was at risk from these people. He associated

with people with whom he had no choice but to associate, whether because he owed them money or because of choice. Even if he were 16 he could associate with a 27 year old.

44. As regards the applicant's age, Mr Coulson felt that he was then 16 to 17. Physically he seemed to be immature and did not seem to shave, and his behaviour was immature, with the grandiose statements including the claims about a girlfriend, and his plans. He could not see the future. He had little grasp of longer term planning and no independent living skills. As regards the basis of his judgment, he found the applicant very immature in comparison to other 16 to 17 year olds. He was susceptible and easily manipulated and had a lack of social skills and could not see beyond the next day. He had no idea of where he went from here. He had no plans and did not seem to feel a need for plans. People developed at different rates but he seemed to be in the still growing category and certainly did not look 20 and he thought he was 16 and maybe 17, and he felt very confident, though not 100%, in that assessment.

45. Mr Coulson commented on the nine matters set out at page 5 of the respondent's skeleton, concerning which it was said the applicant had particular difficulties. The failure to obtain documents from France concerning his birth and education could be linked to the trafficking issues. He had been quite happy for Mr Coulson and his colleagues to speak to his mother and had also spoken to her under Mr Coulson's supervision. The absence of any records was not an age indicator. It could be that he was not French or that his birth was not recorded. Again it was relevant to the trafficking question. Initially he had said that his documents were at his father's flat which suggested that he was not from France. As regards the wedding ring, Mr Coulson had never seen the applicant wearing it. He had said he had a ring a friend had given him. It was quite subjective and did not prove anything. He did not believe the remark about having a 23 year old partner anyway. The applicant had never spoken to Mr Coulson about being on a graphics course. He had once told him that he was a plumber and used to help his father when he installed swimming pools. The inconsistencies in his account were more indicative that he had possibly been trafficked. He had given quite a detailed account of his journey to England. As to whether he might be hiding the fact that he was older, he could be hiding other things. Certainly the applicant told lies and the question was why he did it. Mr Coulson thought it was sometimes because he was very afraid and sometimes he did not understand cause and effect and wanted a situation to end. Mr Coulson had concerns that the applicant could not always tell the truth, and even without trafficking concerns, if he came to visit his so-called uncle there was the question of whether it was safe to talk about how he had come. There was a lot of confusion from him as to who he saw himself as being and a lot of shame about his background. He had created a false self, but Mr Coulson did not take that as an attempt to present himself as younger than he was. He found it very hard to face up to his situation and his background. Then one would get the tearful clingy behaviour. There was an element of storytelling.

46. As regards drug taking, Mr Coulson had understood that the applicant took something called Roche and that was a manufacturer not a medication, and he had been shown different types of medication and pointed to Temazepam. The YOT worker Steffi had said he should have been on Ritalin at his age. It could be that he was taking things he was not prescribed.

47. The applicant had never claimed to be 13 when Mr Coulson knew him. He did not know where the claim to be 13 came from. The applicant was poor with numeracy and it was unclear whether he actually said he was 13. To them he had always claimed to be 16. It was not necessarily an indication of his being older but was an indication of trafficking.

48. On cross-examination Mr Coulson said that Cardinal Hume Centre was for people of 16 to 21 as regards 90% to 95% of the occupants, though two or three could be a bit older. They were mostly placed there by local authorities, almost all by Westminster. When Mr Brown had first brought the applicant Mr Coulson had not done a full assessment as there was no interpreter and the applicant was not conversing well in English. He had been aware that he had been in trouble with the police and the fact that he had said he was 13 was in the documents. He had been in foster care. He was aware that he had admitted to not being 13 but 16 and understood that the applicant had given a date of birth that made him 13 when he was initially contacted by the police. He had claimed to be 16 from when Mr Coulson initially worked with him. The fact that there had been initially a foster care placement did not indicate that he had made a claim of a younger age. It had not been suggested to Mr Coulson that he was 13. He would not have taken the applicant to be 13. Asking him would be the starting point, he agreed, and the applicant said he was 16 and never varied. He said he had been born in Bordeaux. He had not described living with his siblings and initially both parents in Bordeaux but had said he had siblings and half siblings, and it was unclear until later on whom he had lived with. Mr Brown had told him about the applicant being referred to his GP while in France and that he had been for counselling when there. He had not told Mr Coulson he went to college in France but at one point said he was a plumber and helped his father in his business. He had said nothing about Infographie or primary school. He had told Mr Coulson he did not go to school. As regards what could be read into the fact that he could not be identified from the French records, this said to Mr Coulson that no such person had been born at any age. It could be that he was totally illegal in France. He did not have experience of people from France who were wholly unable to show they were from France. He agreed that it was possible that it meant that the applicant's account of his life was not true. It did not follow from the fact that he initially said he was 13 and then 16 that his entire account was untrue. He had given a false account of his life but whether he had given a false statement of his age Mr Coulson did not know. It might be that he was Algerian, but it was put to him that the applicant's case was not that he was born and educated in Algeria, and Mr Coulson said that he could be an illegal immigrant in France. He did not know.

49. Mr Brown had told Mr Coulson that the local authority had asked the applicant to come up with his passport and other documents to support his claim. Because of a lack of cooperation he had got in a French-speaking worker and the applicant had cooperated. They had spoken to the applicant's mother about whether she could produce anything. She said she might have the Livre de Famille. If the applicant did not have the documents he would not be able to provide them. He had told them whom to discuss them with and Mr Coulson had done so. The applicant's mother had said all the documents would be with the applicant's father. The applicant had been happy for them to speak to his mother.

50. He had used the alias Jerome Jibar. He was asked why the applicant would give himself an age of 21 in respect of that name and the date of birth that he wanted to be used of 27 December 1991 and said he did not know. It could be, given his background, that it was to get access to adult websites, different facilities or illegal activities. The applicant had said with regard to that date of birth that it was his relative who had the same date of birth as his own date of birth. He was asked whether he had believed the applicant had a relative exactly five years older than him and used his date of birth, and Mr Coulson said that Mr Brown had told him this. Mr Coulson had never seen any evidence of it. He could believe the applicant was using it. It was probably something quite dodgy for which he was using it.

51. He had never seen the applicant wearing a ring. He knew of it. He had had a watch which he had sold. He did not know what kind. It had never been reported to him what the social worker said that he had removed them to look younger. He had never seen the applicant take any steps to look younger, nor had he ever seen the applicant shave to look younger. It had been mentioned in a report by the foster carer and the applicant had said that was a very fractious relationship. It was the case that people would shave to go to meetings.

52. Mr Coulson did not agree that the applicant dressed quite expensively on occasions. He was quite smart when he went out, but his clothing was not particularly expensive, being from places like Primark.

53. As regards the disagreement between him and Mr Brown as to the applicant's demeanour, Mr Coulson accepted it could be different in different circumstances. The applicant had not wanted to speak to his mother before Mr Coulson did. He had asked him to be careful what he said to her as he did not want her to know that he was involved with the police and social services. He had not tried to prime her. He had learnt only in around March about his mother telling him that she left when the applicant was about eighteen months. He had not asked about the differing accounts between the two of them as to when she went back to Algeria. It was the case that one could not draw a chronology justifying his age for quite clear reasons given his history and upbringing. As to whether social services were right to be concerned that the story did not add up, Mr Coulson found it difficult to expect a person with mental health problems and a history of substance abuse to provide a chronological history. Mr Coulson could see the problems but there was also the violent and abusive background. It was put to him however that these were pretty basic and not very difficult issues and he said that the applicant had been brought up by two or three different people in Bordeaux and his mother had at times denied he was her child and he was quite confused about that. In Mr Coulson's view there had been a lack of support for his mental health and substance abuse issues. It could be that he would have told a different story if he had had the support Mr Coulson had referred to. He seemed to have been assessed as being 20 because he could not give a coherent account but there was no understanding of his mental capacity. It was put to him that the local authority said there was no issue about his mental capacities and Mr Coulson said that they had not said so to him. He was asked whether the applicant had capacity for all relevant purposes and said it was not raised with him. He and the YOT officer had had concerns about the applicant's mental health. He had not been told that the applicant had mental health problems and had capacity. All had been concerned about his drug use. Mr Coulson considered that this impacted on his presentation of events. He had been stoned at one meeting.

54. Mr Coulson agreed that a person could be trafficked at any age and the nature of the exploitation could be different in different cases. His concern had been with regard to sexual exploitation and theft as well, stealing to order. It could be both or either. He was asked whether he accepted that the Upper Tribunal would be assisted by seeing the applicant and said he was not comfortable answering that as he had not seen him for a few months and he had become distressed.

55. On re-examination Mr Coulson was asked whether, given the applicant's presentation at Cardinal Hume House, his view would be that the applicant's conduct meant that he was older or that he was vulnerable. He said he would say that he was vulnerable and did not think that the applicant knew any men of his own age, and only knew his claimed uncle when he came here. He had no basis for changing his initial firm view about the applicant's age.

56. Evidence was also provided by Terence Shamuyarira who is a social worker with the NSPCC Child Trafficking Advice Centre. He was the author of a report under the national referral mechanism for potential (child) victims of trafficking. In the report Mr Shamuyarira made a referral on the basis of the potential indicators that he found existed in the case of the applicant. He met and spoke to the applicant to establish his journey to the UK and circumstances and said that the referral was based on statements given to him by the applicant's solicitor and psychiatrist who had met and spoken to the applicant for much longer than Mr Shamuyarira had. The potential indicators form contained a number of factors under various headings, either marked under the column "yes", the column "suspicion" or left blank if not applicable. Mr Shamuyarira noted such matters as the fact that the applicant said he was offered an opportunity to come to the United Kingdom, paid 800 Euros and had no passport or form of identity and his journey was managed by different agents. The interpreters who had been present during interviews had confirmed that his French was the type spoken on the street in France and not Algerian French, which tended to be mixed with Arabic. It was noted that he had been disappearing whilst in the Cardinal Hume Centre and the staff were aware that he went to areas in Holloway and Finsbury Park which were associated with a large Algerian population, and that the area that he spent time in was popular for sexual activities and exploitation. While at the centre he was alleged to have shown highly sexualised behaviour and was said to have offered some of the residents anal sex. He had been also found with expensive belongings and large sums of money with no explained source. The adult he referred to as uncle Mustapha with whom he had lived was not a relative but a friend of the applicant's mother, and when further enquiries were made it was found that the "uncle" had left London and the only person linked to the address had a significant history of offending. The applicant would not give a conclusive answer to how he knew the man who had been described as a well-spoken English man whose contact he had been given and he said this was out of respect but it might have been out of fear. Mr Shamuyarira also noted that the applicant had some scars which might indicate that he had been physically harmed or abused. Ideas that he had expressed about raising money to go to Canada or Sweden made him more vulnerable to exploitation as it was not clear whom he knew in those countries or the reason why he had picked them. The fact that he had attempted to hang himself with a t-shirt while in police custody might be a sign of some mental health problems for which he would need support, and his use of drugs was noted and there were concerns that it might have a further impact on his mental health.

57. In his oral evidence Mr Shamuyarira said that his job was to provide support to professionals working with children who might have been trafficked into the country. He provided a range of support. He worked exclusively with children and had been doing so for two years and eight months. He had had training in assessment of trafficking and worked for a local authority previously, in particular with unaccompanied asylum seekers, in Reading, for a year. As a social worker he looked after children and did such things as age assessments and care planning. He had been trained in age assessments and had done over ten age assessments while at Reading.

58. He had met the appellant when he was detained at Feltham Young Offenders Institution and spent an hour and a half with him. He had read Mr Coulson's statement and other documents. As regards the applicant's age he said that when he met him he felt he was probably a child given his physical appearance and how he related to the interpreter and Mr Shamuyarira. He had no facial hair and was quite lanky and certainly a child and he would say he was between 16 and 18.

59. With regard to the local authority's view that the applicant was an adult hiding his age, Mr Shamuyarira said he had found many children who came to the United Kingdom did not come with any ID. He was asked whether it was not suspicious that he was not in the French system and he said

it was difficult. He did not know how the French system worked. It was possible that children who were illegal/underground in another country might not be recorded. Going missing was quite a big indication. Traffickers would keep contact with them. It could be that that was happening with the applicant that he had been trafficked out of safe places. He had associated with two elder men when in the United Kingdom. Mr Shamuyarira associated that with what was happening with his non-appearance as a part of sexual exploitation. As regards sexualised behaviour, it was a matter of him not being able to maintain appropriate boundaries. It was part of a pattern. Abused children could show such signs. Mr Shamuyarira attached quite a lot of weight to that factor. The expensive belongings and possession of money were relevant to patterns of exploitation. Similarly the association with the claimed uncle and the older man. The scars were also possible evidence of abuse.

60. He was asked how seriously the Tribunal should take these indicators of trafficking in this case and he said especially after Mr Shamuyarira's discussion with Diane Francis two or three weeks ago he thought that especially those around the applicant's sexual exploitation, going to Finsbury Park and associating with older men were quite serious indicators.

61. The idea of the recovery and reflection period envisaged in the Anti-Trafficking Convention was so that the person could cooperate with law enforcement if they needed to. They were waiting to see if he was identified as a victim. It was put to him that the respondent relied upon inconsistencies and lies in his account and he was asked whether, where there were trafficking indicators, it was safe to rely on his account and he said there needed to be a lot more investigation in the applicant's case. It was common for trafficking victims to be fed a particular story and they could be inconsistent.

62. When cross-examined by Mr McGuire, Mr Shamuyarira agreed that there had been a referral and not a decision. There were potential indicators. He would fill in the form and ask himself the nine questions set out at page 4 of the form. The response would be five to seven days and that would be a reasonable grounds decision. Article 13.1 of the Convention was the basis. There would be a recovery and reflection period for 45 days and then a further decision on further information. He had made a decision to refer and awaited the outcome. There were significant concerns and the applicant should have the benefit of doubt with regard to the age. It was put to him that it seemed that the benefit went to whether there was anything in the whole trafficking account and he said that he could have been clearer in what he said. He agreed that it was not an age assessment. That was a matter of impression not assessment, and he said the meeting was in connection with whether the applicant had been trafficked or not. It was put to him that he had not been in a position to see where the doubts lay as he had not done an assessment. Mr Shamuyarira said that it was quite clear for him to assess the applicant as a victim of trafficking rather than his age but he had an opinion about his age. It was not an assessment, but what he felt his age to be at the time. He had been given Mr Coulson's statement and the psychiatrist's draft report.

63. Mr Buttler clarified that there had not been a psychiatrist's report. Mr McGuire asked Mr Shamuyarira whether it was a letter to the psychiatrist asking for a report, a letter of instruction, and he said yes.

64. Mr Buttler was able to clarify that it was the solicitor's summary, the background to the case. Mr Shamuyarira agreed what he had seen was Mr Coulson's report and the draft that had just been referred to.

65. He recalled speaking to Mr Brown on the phone. He had only given Mr Brown an update and they spoke about the applicant's journey. He had not necessarily given all the information. He agreed that Mr Brown had the impression that he had said that people did not always explain fully initially, and he

might see the applicant again. It was put to him that Mr Brown took it that there was nothing yet but it could emerge at a later meeting, and Mr Shamuyarira said that was an unfortunate inference. He was asked whether it was fair to say that he had changed his mind and had not initially intended to refer the applicant when he spoke to Mr Brown but had later decided to. He said no. He had not seen some of the other statements. He had wanted to iron out some elements with the applicant, so for part of the meeting he was an observer. The second time could be a better time to get information from him.

66. On re-examination Mr Shamuyarira said that after the Feltham visit he had met Debra Francis who had given him significant information and indicators of sexual exploitation had come out. He was not surprised that the applicant had not said anything about being trafficked. It was a collection of activities and he would match up activities to an understanding of whether there had been trafficking or not. He had not had the opportunity to ask about London activities. He hoped that more specific areas would come out of the recovery and reflection period. The police might decide there was not enough evidence to investigate.

67. With regard to the Home Office guidance headed "guidance from the competent authorities" where it was said at page 14 that "it is not uncommon for victims to initially reject offers for assistance and help", Mr Shamuyarira said that this reflected his experience to a great extent. Victims might have been told that they could not trust the authorities. Whatever plan they tried to put in place, victims might reject it, and it depended on the extent they trusted. With regard to the reference at page 10 "children who are in a trafficking situation are often extremely reticent with information and often relate their experiences in an inconsistent way or with obvious errors. More often than not this will be because their stories are composed by others and learned", he said that reflected his experience. If they were coached they might tell a person they trusted the actual circumstances and this could be seen as inconsistent. Traffickers did not want them to be believed. If there were grounds to believe a person had been trafficked then they would receive a one-year residence permit. Quite a few authorities would provide accommodation away from London. That would ensure that he would be able to be worked with without influence.

68. The next witness was Debra Francis who has provided a witness statement dated 24 July 2013. In that statement she says that she is a qualified social worker with over twelve years' experience including wide experience with working with young people and children with learning difficulties including substance misuse, asylum seekers and children who have suffered abuse. Her current role was as senior residential support worker at the Cardinal Hume Centre. She described in the statement the nature of her role. She had supported the applicant with his needs since arrival at Cardinal Hume in January 2013 as part of her general duties to support all young persons in their care, but was allocated as his key worker in April 2013. She had attended with him at meetings with social services, YOT and at Charing Cross police station with him as his appropriate adult.

69. Ms Francis said that as his key worker she interacts with the applicant on a daily basis which can range from ten minutes to half an hour or more depending on the situation. She said that his needs are high and he will often appear depressed and need reassurance, encouragement or motivation to engage generally or with hostel activities. He requires constant reminders to carry out his daily tasks and his logic or ability to reason appropriately is not consistent. He will not adhere or commit to any given tasks and will often forget what he has been asked to do or fail to grasp the consequences of non-completion of his task. He suffers with mood swings. She says that when she is not on shift her colleagues will see him and engage with him daily and keep an eye on him.



70. She noted that since his return to the centre he was quieter than he used to be and was quite subdued. He did not interact with the other residents very often and was very secretive. Previously he could be quite boastful and would often tell a story which was very grandiose in content such as the account about the 23 year old girlfriend in Canada and having plans no one must know. He seemed to want to portray an image of someone who was streetwise and independent. Despite that image he was viewed by the other residents as quite immature.

71. Ms Francis said that the applicant was respectful to staff at the centre although there were times when he could be very challenging. He would appear assertive but would often back down if he felt pressured or overcome by the person with whom he was arguing. He did not open up easily and could be secretive. He trusted no one. She found that he did not and would not divulge information easily and it had been very difficult to get any information about his upbringing or his relationship with his father, whom he found it difficult to talk about.

72. In conclusion, she described him as a very complex character with high support needs. Nothing in her dealings with him indicated to her that he was an adult. She believed him to be a particularly vulnerable young person who without support would suffer significant harm. She also mentioned that on one occasion he claimed his mother had sent him money and he was going to meet someone to collect it but she was aware that he had not spoken to his mother for some time.

73. In her oral evidence Ms Francis said that the statement was true to the best of her knowledge and belief. She said that the applicant had been worse since he had been fasting and it was difficult to motivate him at present. She had a lot of experience of working with the 16-21 age group. She estimated the applicant's age as 16 to 17. She was not sure she would go as far as 18 with his needs. Her view was based on the fact that he did not understand cause and effect, for example with regard to signing on. He did not go to appointments. He could not be bothered and was not good at cooking. He did not budget and was very childlike. He used to make very childlike inappropriate remarks to females. She had set boundaries with him. She had said that as she was not his mother he should not hug her. This did not register with him. He was looking for a mother figure and looking to be loved.

74. On one occasion he said that he had £300 which he needed to get back from the police and said he would be safer in Feltham than in the centre because he needed the money back from the police. He would challenge one in a very childish way. It was not inappropriate sexual behaviour when he hugged her. He had cried when he saw her at the police station.

75. It was put to her that it could be said that he was an emotional and disorganised adult. She said that could be, but if so he would not necessarily want to hug her. Her judgment was based on her experience. You would have to show concern and work with clients' needs and this could be misconstrued as an attachment and he was capable of doing that and capable of forming a mother figure attachment. She was not sure that he processed well. There were also concerns about his substance misuse and depression and anxiety.

76. As regards the substance abuse he smoked cannabis and she was not sure if he took MDMA. He had no support because of his age and not being accepted to be a child and it was similar with regard to child mental health support.

77. The applicant could become challenging and throw tantrums. He would apologise later. That could be age related or not. She saw it as a characteristic of his. It showed his need.

78. She had seen the NSPCC referral and the trafficking indicators. Her opinion, based on working with him, was that there were grounds to believe he had been trafficked. He left at set times and would not say whom he was seeing or why. His trips were all in fact to Finsbury Park and Holloway. At one point he had had a large sum of money which he had said was £600. She had not counted it. He had said he was going to Walthamstow. He had not returned with it. He had told her he was getting phones and selling them, but he never had money. He said he was getting money from his mother but he was not in contact with her then. He had no money. She did not know where the money was going.

79. She had heard some of the stories that he had told Mr Coulson, for example going to Canada to meet a 19 year old girlfriend. He recalled his father taking him to France. He had helped his father building/installing swimming pools. At paragraph 8 of her statement the age should be 19 not 23. That story was not likely to be true, but to be invented. In her judgment the story about Sweden was a fantasy and she would say it was embellished. He had never told her that he was married.

80. It was put to her that the respondent said these were indicators that he was an adult. She said that in her experience, and as a mother as well, a lot of young men would brag about older girlfriends, and it could be wishful thinking.

81. She was asked about her reference to paragraph 8 of her statement to him being immature and she said that the girls at the Centre said that what he said to them and his approach was very immature. He had burst into their room and asked rude and impertinent questions. They had spoken of him being immature. She had asked them to be more pleasant to him but they would not and his feelings had been hurt. These were girls of 19 to 21. They had thought him very immature and childish and that he was craving affection.

82. With regard to paragraph 9 of her statement and the reference to him appearing assertive, he would say that he must do something and you could not do anything about it, and then after you spoke to him he would regress. 90% of the time he would apologise as he did not want you to be angry with him. It was put to her that the respondent said he was very assertive at the interviews and this indicated he was an adult. Ms Francis said it indicated to her that he tried to get his own way, but if you persisted he would break down.

83. With regard to the references to him disappearing and Westminster saying that this indicated he was hiding his greater age, she said that she read the gaps in his story as that he was meeting someone to engage with them and give them money and do things and he would not tell her and she had never met or seen any of his friends. As to how he had come to the United Kingdom and Westminster saying he was hiding what had happened which indicated he was older, Ms Francis said she did not think he could. He was under pressure to keep quiet she thought. For example, there was the £300 issue and being safer in prison. He had been adamant.

84. On cross-examination Ms Francis said that what was set out at paragraph 5 of her statement setting out the applicant's background was what Mr Coulson had told her and it was gleaned from the applicant's mother via Abasse. The applicant had confirmed his father had died and his mother was back in Algeria and he could not go back there as his mother's life would be at risk. She was asked whether she believed the applicant was born in Bordeaux on 27 December 1996 and said she had no reason or evidence not to believe this. They had not been privy to the information which the local authority gleaned as a result of its enquiries to the Embassy that there was no such person with that date of birth. She said that the applicant had friends with contact in that area. It was put to her that there was no record of his siblings either and she said that he had mentioned a sibling.

85. Ms Francis was asked whether the absence of proof of the applicant and his parents in France affected her judgment and she said no, given her conversations with him. She had no reason to disbelieve him. It was put to her that the applicant's mother said she left when the applicant was 18 months and this contrasted with his evidence. Ms Francis said that the applicant told her his father took him there and took him back but he could not return to his mother. She was asked whether she could still rely on his history given the series of different versions about his movements to Algeria. She said she could only go on what she was told. She had not seen evidence to contradict for example that he was Algerian by birth. He had spoken about incidents in Bordeaux and people he had tried to contact in the last month about living in Bordeaux. She was asked whether she was surprised that he was inconsistent about when he returned to France and she said not really, he was not consistent with quite a few things. As regards him not being able to remember his address in Bordeaux she said she had her reservations there. He had spoken about an area and a street name and he might be withholding information. As regards the primary school name and his inability to remember that she had not gone through that with him. She did not think he was unable to name it but there could be reasons he was not divulging it at the moment as it could be worse for him. With regard to the college course she said she had not even been aware he had gone to college and had never seen him on a computer except with other residents. He had never referred to doing such a course to her. She said that he could be very grandiose. She agreed that she had not made any enquiries of this nature, and Westminster had. As to the fact that she had never formally assessed his age she said she was not qualified to do so and could only go by what she saw. She was quite surprised to hear he shaved. She had never seen stubble when she woke him up. The evidence of the foster carer in this regard was put to her and she said that over a three month period she had never seen it. As regard to the reference to the ring and the watch being taken off to make him look younger she said no he did not wish to look younger. He wanted to present as an older man.

86. On re-examination she was asked how it would affect her view of his age if one assumed that all he had told her about living with his father in Bordeaux and going to Algeria and his mother being there was untrue. She said that it would not necessarily change her opinion about his age as she had borne in mind his behaviour, his attitudes and values and the way he viewed life, and these were all still the same. She could only say what she had seen. The behaviour she saw could be very childlike and that was for the Tribunal to decide.

87. The next witness was Sam Brown. As set out above, Mr Brown carried out the age assessment with his colleague Maz Mannan. Mr Brown has also provided a statement dated 18 July 2013. In it he confirms who took part in the age assessment and that it was completed in accordance with the Merton guidelines. He says that the conclusion that the applicant was assessed to be 20 years old and was given a date of birth of 27 December 1992 was reached on the basis of numerous pieces of evidence derived from conversations with the applicant, the three formal age assessment interviews and information received from professionals who had been involved with the case. He notes that the French had been unable to provide any documentation to verify the applicant's claim to be a 16 year old young person born in Bordeaux. Checks had been carried out with the French Embassy using the name and date of birth he provided and there was no record of him, nor was there any record of any of the family members he claimed he lived with in France. He had been asked to contact the French Embassy to obtain ID documentation in order to prove his age but refused to do so, giving no reason for his failure to do so. He had also been unwilling to provide contact details to enable the local authority to verify his claim that his documentation was in the possession of his late father, despite the fact that he had said he could obtain his father's contact details from other family members. These requests were made prior to his father's death in January 2013. He had been observed to use the alias

Jerome Djabar and a different of birth suggesting he was older, and had previously asked social services to contact his phone network to unlock his phone and used the date of birth 27 December 1991 which would make him 21 years of age. He had also been observed to use that date of birth when changing the settings on his phone.

88. He had claimed to the YOT worker Nathalie Stickler that he was married to a 23 year old girl from Canada and had also told her that 13 was only his age in England and he was in fact 21. He had been observed to wear a wedding band but since the early conversation with Nathalie Stickler, he refused to answer questions about its significance. He had been observed to remove his ring at various times when either it had been recently commented on or he wanted to present as younger, and during an appointment with the UKBA on 14 January 2013 he told Mr Brown he was removing the ring and his watch because they made him look older. He told social services on 4 February 2013 that he was in a relationship with a woman from London aged 23 who was aware that he was 16. This was regarded as being unlikely. His association with older males from the Algerian community since his arrival in the United Kingdom and his arrest for theft with a man in his twenties who he claimed was a friend were seen to be indicative of the fact that he was older than he claimed to be. Mr Brown also notes such matters as inconsistencies in the information the applicant provided about his education and his failure to name the primary school he attended for six years in Bordeaux. He said at paragraph 24 of the statement that there was a majority consensus among the professionals who had been involved with the applicant that he is older than the age he claims to be. The foster carer who looked after him for two months believed him to be 20 or older. The doctor who carried out his Looked-After Child medical examination believed he was 18. His YOT worker believed he was a minimum of 18. The Chelsea and Westminster Hospital doctor who carried out a child protection medical examination believed he was 18.

89. Mr Brown also mentioned the claim that the applicant was prescribed Clonazepam by a psychiatrist in 2007 and the implausibility of that. He presented with a confidence and assertiveness leading to the conclusion that they were interviewing somebody older than 16. His youthful appearance was said to be at odds with his assertive and confident demeanour. He had facial hair on his chin and was previously reported by the foster carer to shave prior to meetings with social services and the foster carer believed he did this in a bid to appear younger. He was very focused on his appearance and dressed in styles one would associate with someone older than 16 in his late teens/early twenties, i.e. fitted jeans and jackets. During the interviews he was very assertive and confident. He was argumentative and challenged the interviewers on several occasions which was not in their collective experience the behaviour of a 16 year old boy but more like someone older. He was very assertive throughout all three interviews. He did not always appear to be taking the interviews seriously. The conclusion was drawn that he was attempting to control and measure his behaviour throughout the age assessment. At times he was defensive and on occasions argumentative. The defensiveness and failure to provide certain information gave the impression he was deliberately preventing professionals from gathering the evidence needed and the conclusion drawn was that he was withholding information to ascertain his true age of someone older than 16 and in their twenties.

90. The foster carer, who had significant experience of looking after young people, believed that he was not seeking the nurture, care and safety of a foster placement but instead was more minded and wanted to play the system by pretending to look younger in order to gain accommodation and finance. He was frequently absent during the foster placement and was unable to stick to the curfew set out by the foster carer and presented as argumentative and disrespectful towards the carer when he did not get his own way or if she challenged his behaviour. She felt threatened by him after he slammed doors

and shouted in her face and the placement was ended soon afterwards. This was seen as not reflecting the behaviour of a child who was upset when things did not go to plan but more the behaviour of a young adult who is constantly seeking to get his own way. Throughout the social services' involvement he had been requesting to move into independent accommodation and live in a flat on his own, which suggested that he was older than he claimed to be. He was quite confident and self-aware during the assessment and throughout social services' involvement while he was in the care of the local authority he demonstrated a level of independence beyond that which one would expect from a 16 year old. While in the hostel prior to being detained he did not engage with any support offered which suggested he did not need support to live independently and was further evidence that he was older than he claimed to be. He had demonstrated having some independent living skills and in addition to shopping for groceries and providing his own food on a daily basis he showed he was able to wash his clothes and sheets. If he had told the truth about how he came to the United Kingdom he had shown he was able to travel across countries independently via multiple modes of transport. It seemed unlikely that a person of 15 would have been able to do this. There was ongoing suspicion that he had been working illegally and he had denied this but had been unable to explain his new purchases or expensive items in his possession. At various points he had claimed to have worked in an internet café but also stated his mother gave him money in the sum of £300 per month via Western Union. He was not prepared to provide the name of the friend to whom he said his mother sent the money for him to collect.

91. The applicant did not mention the information gleaned by his solicitors from the applicant's mother that he was born out of wedlock after his mother ran away from her family who had betrothed her to her cousin and when she abandoned the applicant and was assisted to get back to Algeria she told her family she had been kidnapped. She claimed she was forced to marry her cousin but her family were not aware that the applicant had been conceived. It was regarded as significant that the applicant's mother had not answered social services' calls or attempted to contact them and this was viewed as part of a plan to secure finance and accommodation for the applicant from the local authority. The differences between his account and his mother's as to his movements between France and Algeria were noted, as well as his claim to be unable to name the primary school he attended in Bordeaux or the address of the flat he lived at in Algiers.

92. As regards his time in Paris, he said the grandmother of the family knew his father. He said he just slept at the home of the family friends and spent his days in the Barbes district of Paris which has a high immigration population. As set out in the summary of the age assessment he gave a detailed account of how he came to the United Kingdom and his stay with his uncle Mustapha Moussaoui. His two arrests since coming into the care of Westminster were noted and the fact that he had contradicted himself in relation to having friends in London. On various occasions he had said he knew no one but at other times mentioned friends within the Algerian community and he had been arrested with an older Algerian male who he claimed was a friend from France. During the age assessment interviews he showed having knowledge of the care system and admitted he had been told by Algerian friends that he would be taken into foster care if he lied about his age.

93. In his oral evidence Mr Brown said that he had read his statement carefully before he signed it and it was true and accurately represented his views as to the age assessment and the opinions expressed in it. He said that when the applicant was originally referred to Westminster they had decided they would do an age assessment as he was clearly not 13, the age he claimed to be then. They had a duty to accommodate and support him. In the period when the foster relationship was breaking down the applicant began to say he was 15, turning 16. He said that to the YOT, not to

Westminster. It coincided with the conversation they had with his mother who said the same. It was the same day and month as he had originally claimed, but a different year. He would not say why he had changed the age he claimed to be. At the stage when they were arranging the placement in the hostel, Mr Brown felt the applicant was older than he claimed. They had not determined the exact age but felt it was over 18 and up to 21 would be appropriate.

94. There was no interpreter at the initial meeting. The applicant had good conversational English but it came and went. He had indicated he did not understand, so Mr Coulson had decided to close the meeting then and speak with Abasse who was a French worker at Cardinal Hume.

95. After the applicant moved to Cardinal Hume he had a key worker there and was expected to take up their support. He was still a looked-after child at this point. A Looked-After Child plan had been made which included things he was to be encouraged to comply with. Mr Coulson and Ms Francis had provided a professional service and worked very hard to try and engage him, but he did not want to. He was away a lot and made himself difficult to contact. Mr Brown had been the allocated social worker and got updates from Cardinal Hume on how the applicant was doing, and was gathering information for an assessment of needs and a care plan and following up the Looked-After Child review plan. He had been the contact person in Westminster. The applicant had been one of his more active cases, especially when he had been fostered, but after he went to Cardinal Hume and there were run-ins with the police, Mr Brown was involved then and accompanied him to medical appointments. He was generally making efforts to engage the applicant. They developed a good relationship. No doubt the applicant felt slightly betrayed by Mr Brown given the conclusions he came to as to his age and Westminster ceasing to have a duty to him and not paying for accommodation, and that had made the conclusion Mr Brown came to slightly difficult. YOT were also trying to engage the applicant in respect of the thefts. He had not really engaged with them either. He had not attended appointments.

96. As regards the age assessments, because Mr Brown had not done an assessment before, he did this one with his colleague Maz Mannan who had done ten previous assessments and had a lot of relevant experience with people like the applicant and people in his professed age group. They had both interviewed the applicant and Mr Brown had written the assessment and Mr Mannan went over it and then it was turned in for authorisation by their managers. He stood by his statement also.

97. As regards the claimed date and place of birth, Mr Brown had contacted the French Embassy, having asked the applicant to produce documentation to contact his father when he said the passport was with him. He would not give his father's contact details. The French had run some checks and said there was no one of that name and date of birth that they had a record of in that part of France. They gave them the father's and mother's names and their dates of birth. They knew by then that his mother was in Algeria but she had lived in France. The applicant had said his father was a French national, born in France, so they did checks on them but again there was no record of them according to the French Embassy. They had not done checks on the applicant's sisters as he was unsure of their dates of birth.

98. When the applicant mentioned doing the Infographie course, and it seemed the earliest you could do that was at 15, Mr Brown thought that the applicant realised he had made a slip and he became noticeably angry with himself. As regards his health he told the local authority that he had been prescribed tablets by his GP in France and mentioned Roche tablets, Mr Brown thought it was 5 milligrams. Mr Brown could not work out what he said he was prescribed so he looked on the internet with the applicant and there were pictures of tablets and the applicant identified one as definitely the

one he had taken and this turned out to be Clonazepam which the applicant could not have been prescribed at the age of 9 which was around the time he said he had been prescribed it. He also said that the GP in France gave him counselling. He said he did not know the GP's name and that seemed unlikely and said he went weekly, in Bordeaux. They felt that he had withheld the information to prevent them discovering his true age.

99. With regard to Mr Coulson's view that it could be the applicant was in France but below the radar, they had found it very confusing. Mr Brown said he could not claim huge expertise in the French system, however it was not dissimilar to the British system of social services, the school system and health system, and he would expect someone who had lived there for so long to have come on the radar of one of these. He would have had contact with the services. As to the inference they drew from this concerning his date of birth he said that they looked at everything together and there was a lot of evidence. There were holes in his story and inconsistencies and they felt he could not be the age he claimed to be. There was enough support for the conclusion that he was significantly older than 16.

100. As to how the applicant dressed, he was always well-turned out when Mr Brown saw him. When he was outside the hostel he was well-groomed and wore quite fitted clothing and had a clear appreciation of style and fashion which Mr Brown saw as him being older than his years. With regard to the wedding ring, the foster carer initially told them about seeing him wearing it and that he removed it when social services visited. Mr Brown had seen that when he accompanied the applicant to the UKBA. He removed the ring and watch in the waiting room and said when asked why he had done that, that they made him look older and he needed to take them off. He had asked the applicant what he meant and he had shrugged it off. After that Mr Brown did not recall seeing the ring again.

101. As regards the issue of physical size and maturity, Mr Brown said it had never been about his physical appearance. He could be 16 to 20 or older. He had facial hair, not a huge amount. The foster carer said he shaved before he attended a meeting with them and she felt this was a bid to be seen to be younger. He was claiming to be 13 at that time. He was slim, but the Cardinal Hume reference to his inadequate diet could account for that.

102. As regards his general demeanour, it seemed that Mr Brown and Mr Coulson agreed to differ. They were clearly seeing the same thing and it was a question of how you interpreted it. Mr Brown said that when challenged, especially in the age assessment, the applicant could be confrontational and a bit rude and abrupt. Mr Coulson saw this as the behaviour of a teenager and Mr Brown saw it as being more like someone older and used to making decisions by himself. Also the applicant used his charm and wit of which he had a lot. He put it on in the age assessment and it slipped a couple of times and he used it to manipulate professionals' opinions of him. He could be endearing and frustrating. With regards Ms Francis's evidence the applicant was somewhat childish, Mr Brown did not agree with the picture of a clingy, needy child. The applicant was affectionate and quite tactile and had tried to hug Mr Brown on more than one occasion. Mr Brown had put this down to a reflection of his personality and upbringing and possible cultural background.

103. As regards the personal history given by the applicant it was confusing, and what he said about his movements did not really add as between him and his mother, so this was another big hole in the history. It had indicated he was not telling the truth. Not to remember his address in Bordeaux seemed very unlikely. Again it prevented them doing the checks with the authorities. Again there was a gap in his story with regard to whom he went to Algeria with. He did not know when he was in Algeria. He said he spent a period of time when he was not attending school and his mother did not

force him, and he stayed with other family members there. It was unclear how long he was there and when he came back and with whom he came back.

104. Mr Brown had seen the latest correspondence concerning an adjournment for the applicant's mother to attend on video link. It seemed to be said that he was illegitimate and kept a secret from family members and evidence via video link would put her in danger in some way. This had not fitted with any account the applicant had given or that his mother had given. It was not clear when he had gone back to Bordeaux. His mother had not been consistent about that.

105. The conclusion taken as a whole as to his age was that he was definitely older than the 16 he claimed to be. He was not a young person but an adult. Mr Mannan and Mr Brown had settled on 20, given all they knew. He was asked whether there was a bracket and he said that looking at all the evidence together and how he came across they felt he was older than 18 given the fake date of birth and the alias. The fake date of birth would make him 21. As regards the fake date of birth issue the applicant had come to see Mr Brown for an update and had asked him to get the service provider to unlock the phone, giving the date of birth which would have made him 21 and in the name of Jerome Djabar. When Mr Brown said no the applicant ripped his name and date of birth from Mr Brown's notepad but left it on the table and Mr Brown kept it. The applicant noted that he had and smiled and shrugged his shoulders. This was more fuel and evidence that he was not telling the truth about his age.

106. He was asked about other possible explanations such as drug taking. Mr Brown said they knew quite early on, at the time of the foster placement, that the applicant occasionally smoked cannabis. Cardinal Hume had concerns about other drugs when he was mixing with another student who was known to be a dealer. The suspicion then became clear to Mr Brown when the applicant was arrested. This was the incident when he struggled with the police and alleged they had attacked him. When he had emerged from there Mr Brown was worried by his presentation. It was not the applicant he knew. He was erratic in word and a bit wide eyed and emotional, and they later discovered he had taken MDMA. He was asked whether the applicant's presentation then was explained by the drugs and Mr Brown said yes. He had never seen the applicant like that before. He had accompanied him back to the hospital and spoke to Mr Coulson about him. It had been thought that there could be a mental health problem, but then they learned about the drugs which Mr Brown thought explained his behaviour. He had seen nothing else in the applicant's conduct otherwise to attribute the answers that had been being discussed to drug taking. He was asked whether it was a fact that he would take into account in terms of risk of harm to the applicant and he said it was an element of risk of harm to him.

107. As regards mental health issues and Mr Coulson's misgivings, Mr Brown said it was difficult to say. They described ups and downs in his mood and it could be drug-related and/or mental health-related. The attempted suicide could not be regarded outside the context of a mental health issue. He had not seen evidence or felt the need to gather evidence concerning capacity in a Mental Health Act sense. The applicant could be challenging, and Mr Brown thought that was a matter of not being able to engage with the process.

108. As regards the possibility of trafficking, Mr Brown was aware of Cardinal Hume's concerns. Given the circumstances in which the applicant said he came to the United Kingdom with no documents this was raised as a possible issue with Cardinal Hume. They believed he was trafficked. Mr Brown had completed the trafficking matrix as Mr Shamuyarira had, but it produced a very different outcome. The case seemed hugely overstated, for example things were set out as definites when they should have been down as being suspected. There were things said about sexual



disinhibition which were not there or could be explained away in different ways. There were certain indicators but nothing that could not be explained in other ways. The applicant had been adamant that he made his way to the United Kingdom having given huge detail of this more than any other part of his history. This showed what had happened on the journey.

109. The matrix completed by Mr Brown should have been on the file but it was not. It had been misplaced and he did not know where it was. It would normally be kept on the file, they would scan it onto a computer and that should be what happened, but it had not been done. He accepted that this was his fault. He would be happy to look again but he had looked before.

110. In cross-examination Mr Brown said that he had done a two-day training course on age assessments one or two weeks before he did this assessment. He did not recall who had run it. He had had no formal training in identifying victims of trafficking or in working with them. He was aware of the government's safeguarding policy as they got a lot of stuff, but he did not recall having read it. He was asked whether he was aware of the duty to investigate allegations of trafficking and said if there were sufficient indications of trafficking or a concern that they had, that was enough. It was put to him that he just identified risk factors and he said yes, at the hearing. If they had had significant concerns about trafficking he would have enquired about the next stage.

111. He had been allocated as a social worker for the applicant in November 2012. He had seen him less regularly than he would have liked. The foster placement was not suitable for the applicant as he was absent and difficult to contact. Mr Brown had gone there often to see the applicant, but there were difficulties in seeing him as he was not around. It had varied. It could be two times a week depending upon what was on, and then a big gap, but on average he had seen him once every two to three weeks. The circumstances of seeing him were to do formal things such as taking him to assessments and appointments but also while travelling with the applicant he spent quite a lot of time with him informally and he felt their relationship grew. This was not just the pre-January transfer to Cardinal Hume but for example when he was arrested he had collected him from custody a couple of times and when he had a health appointment with the Chelsea and Westminster Hospital. Cardinal Hume had day to day care from January onwards in the context of independent living accommodation where he had a key worker and support. He agreed that the Cardinal Hume workers saw the applicant much more often than Mr Brown had, although the applicant had ducked under the radar a lot while he was there. He agreed that they would see the applicant more often off guard. He agreed that the applicant appeared youthful, but said it was necessary to put an age on him. His behaviour was not consistent with him being a child. His age in terms of physical appearance had not been easy to determine. Mr Brown thought it was in the bracket of 16 to 20. The applicant had often gone missing and went off with older men and came back with an unclear story and took drugs including MDMA. As regards having money that was unaccounted for, Mr Brown said he would dispute that. He knew it was not what Ms Francis said, but the applicant had told Westminster he was receiving money from his mother. He was obviously making money by other means and they did not know what. He agreed that the applicant was a repeat criminal offender and that there were mental health concerns.

112. Mr Brown was referred to tab 9 of the slim bundle and the suggestion in the email from Mr Coulson to him of 14 January that the applicant might have been trafficked. Mr Brown said that they had their own views on the situation with regard to trafficking and other reasons. They were forming views of the applicant's age during the age assessment process. He accepted the point that the applicant had been picked up in the company of an older man but they had not seen this as him being a child. The evidence was building towards their ultimate view about his age. Mr Coulson had told him about the applicant's sexualised behaviour and Mr Brown's interpretation was different, seeing it as a

wrong conclusion by Mr Coulson. He thought it could be viewed very differently. Inappropriate comments to women were not exclusively made by young people. As regards the reference to anal sex and areas of sexual exploitation, adults made suggestive comments inappropriately and it could be a product of many things, including upbringing. It was put to him that he had no training and was told this by a person who did and he was asked why he did nothing about it. He said he thought he had explained this. He had disagreed with what Mr Coulson had said. There were other explanations. That was why it was not put forward. Mr Brown had definitely not believed it was a trafficking issue and this had been discussed at work and was agreed.

113. He had seen the NSPCC evidence. He felt that a lot of the ticks were over exaggerated and overstated. He could see what Mr Shamuyarira was saying but he thought some definites should have been in the suspected box.

114. With regard to the referral to the police at tab 10 of the slim bundle, this was the time when the applicant alleged he had been assaulted by the police. It was probably done on 6 February 2013, the day after the medical. The referral was made to the police because of concerns about child abuse.

115. Mr Brown was referred to section E of this form and the fact that he had ticked no in the box referring to sexualised behaviour by the victim. This was because he had disagreed with Mr Coulson. With regard to his ticking no in the substance abuse/alcohol abuse box, he did not know why he had ticked that, it could be a mistake. With regard to ticking unknown in respect of mental health issues it was difficult with the applicant because of the age assessment process. It was a question of a review by an independent officer and whether they could provide a service for the applicant. Mr Brown had called and spoke to someone and they said they could not provide a service until the age assessment was completed and could not take on the referral until it was clear. No other steps were taken with regard to his age.

116. He was asked why he had ticked yes in the box referring to raising trafficking as an existing risk factor and said he did not know why he ticked that. He had clearly ticked more than one box wrong. The concerns about trafficking were not his.

117. He was asked whether he had reported the concerns about trafficking to the police and he said that too much weight was attached to him having ticked that box. He had made his position clear. It was put to him that it was contemporaneous evidence and he said he did not recall ticking the box. He was asked whether he had known about the human trafficking centre or how to make a referral to it and he said his concerns then were not around trafficking. He could have enquired if he needed to about the process. He had had no reason to know about the centre and a referral and did not know. It was put to him that there was no mention of Mr Coulson's trafficking concerns in the age assessment document and Mr Brown expressed surprise at this and said he was not aware that it was not mentioned there. He was asked whether he had grappled with it as part of the process and he said it was an issue that had come up again and again around the applicant and it had been part of their discussions all the way. He had had a discussion with Mr Mannan about trafficking and whether they felt the applicant had been trafficked. It was put to him that this was not in the notes of the age assessment and he said that the discussion they had was after the interview and it would not be recorded in the notes. It was put to him that it was not mentioned anywhere in the social services file and he said he would have to review the file. Mr Buttler said he had reviewed it and there was no mention. Mr Brown said he could not think of any document which specifically addressed it.

118. He was asked whether he accepted that if the competent authority thought there were reasonable grounds to consider the applicant to be a victim of trafficking it was relevant to an age

assessment, and if he had had a decision from and on this before the age assessment it would influence his decision. He said it was hypothetical and he did not see the relevance. Mr Brown also said it would depend very much on the nature of the grounds and more information would have had to have come to light which they did not have. It was not known if they would accept it. It was hypothetical and he would have to see the information and he was not sure he could answer. He agreed that his assessment was predicated on a view that there was nothing in the indicators for trafficking but that the applicant was hiding the fact that he was older. It was suggested to him that his view was partly based on the view that the applicant was not trafficked and Mr Brown said it was influenced by that. There was plenty of other evidence alongside it apart from the evidence relating to trafficking. The applicant had given enough away in the interviews. He said that the assessment was holistic. He agreed that the failure to give a clear account of his background and movements between France and Algeria and the lack of a record in France had influenced the decision that the applicant was 20.

119. Mr Brown was referred to tab 1 of the slim bundle where there is a social services file note. He said that this had been completed by Ella Crawford of the YOT, reporting to social services. He was referred to page 3 where it was said that the magistrates took the view that the applicant was 13. Mr Brown said he thought that they felt they had no other choice then as the applicant had no documents and claimed a certain age and no appropriate adult had come forward. They had advised an age assessment.

120. Tab 3 was a Looked-After Child (LAC) review, a statutory meeting with independent scrutiny. It was suggested to him with regard to page 3 and the reference to the applicant being 13 that it would not make sense to treat him as 13 if they thought he was an adult. Mr Brown said he thought it was the position local authorities found themselves in. It was necessary to go with a person's claim until and unless there was evidence to go against it. He said that the independent reviewing officer changed his mind when the applicant changed the age he claimed to be. He thought that the officer felt it was the correct thing to do procedurally. He had spoken to the officer about the case and he had said they did not know the applicant's age but it was correct procedurally to treat him as 13.

121. Mr Brown was asked where he got the view that the LAC doctor thought the applicant was 18. He said it was what the doctor had told him. He was referred to the first page of the second document in the slim bundle where the Looked-After Children doctor was reported as advising that he concluded that the applicant was aged between 16 and 18. Mr Brown said his recollection was that it was 18 and he did not accept he got it wrong and that was what he recollected. He agreed that this clearly suggested otherwise.

122. He was aware that the applicant's mother had told the YOT that the applicant was born on 27 December 1996. He had called her on numerous occasions and got through once but it was a very bad line and they could not hear each other and there was an echo and the line kept cutting out. He had rung back and there was no pickup. He had tried more than ten times. The last time he tried would be before the beginning of the age assessment.

123. He was referred to page 2 of tab 8 which was the child protection medical report. It was put to him that that did not involve a suspicion that the applicant was thought to be older. He was described as being a 16 year old boy. Mr Brown said he thought they went on the facts that Westminster had at the time and the date of birth the applicant had given them. He had asked about age and they had given him their view. It was put to him that that was not on the file anywhere. He said it was what the doctor told him, that the applicant was 18, and he did not believe he was disremembering that.

124. He was referred to tab 4 where he was quoted as saying that he thought that the applicant was 17 or 18 and the YOT thought so too. He was asked whether that represented his view then. Mr Brown said it was an evolving view. A lot of the information that shaped his view of the applicant came further down the line and his views had evolved and that was his thinking at the time.

125. As regards tab 5 he confirmed that that was correct. He was asked with reference to page 5 of that report whether what said there about it being felt that the applicant might be aged between 17 and 18 was Mr Brown's view on 9<sup>th</sup> January 2013. Mr Brown said that views changed and evolved. A lot was copied and pasted from other documents. He did not recall filling it out. He had definitely written it. It could well have reflected his thinking at the time. It was put to him that it did and he agreed that it could. It was put to him that the declaration of truth at the end of the statement supported it and he said he did not recall what his thinking around the applicant's age was at the time.

126. With regard to tab 6 which was an email to him from Viviane Dasilva of the New Horizon Youth Centre he said he did not recall dealings with them. He recalled getting the email. He thought Ms Dasilva had contacted him but they were not able to talk. He did not recall the conversation they had had. He was asked whether it was not the case that the B side at Feltham was for people aged 18 to 21 and he said he was not sure.

127. He did not know why the applicant had changed his stated age from 13 to 16. He had asked him and he would not answer. Problems with foster care had led to him being moved to Cardinal Hume which was less restrictive. It was put to him that the applicant was then more able to go to Holloway and Finsbury Park and he said certainly he was closer to that area. He had more independence. He had never said he wanted to be able to go to those areas.

128. He was asked whether his change of view from the applicant being 17 at the beginning of January to 20 was a consequence of the arrests and the interviews. Mr Brown said he did not remember writing the statement in the referral form or his thinking at that time being so rigid about the applicant's age. Their thinking was generally fluid. Nothing led them to determine his age conclusively until after the interviews.

129. At this point in the evidence being taken it was suggested by Mr Buttler that it seemed there might be documents that had not been disclosed as there were references to underlying emails in inbound emails, and after some discussion it was agreed that it would be necessary to seek to produce the full set.

130. This was done, and I am grateful to Ms Wilson, the applicant's solicitor, in particular, and to Mr Brown and others who assisted in the production of a further bundle of documents which was produced on the second day of the hearing.

131. Mr Brown was asked who was Sharon Robertson, who was referred to at tab 3. He said he did not know who she was and had not heard of her. He was asked whether he had followed this up and said that at that stage he thought they had concluded the age assessment so it was nothing further to do with them. He was asked whether the mental health question bore on the age assessment and he said there had been indicators, and the main one for him was when the applicant was released from custody and they had later discovered he had taken drugs. He was asked whether he had found out if it occurred and what the results were, and he said that the applicant ceased to be a looked-after child after their decision and the case was effectively closed.

132. He was asked about tab 4 which was an email to him from Rejhan Sylejmani, and his response. He recalled this and he said he did not accept the criticism. They had effectively come to blows over this. His diary had been very full and he could only schedule the interview for that time and was under pressure to complete the age assessment. It took some organising getting everyone there. They had arranged the set dates to get everything done. He was as flexible as he could be at that point. In the end they got another independent observer.

133. He was referred to the email to him from Emma Crawford at tab 5 and it was suggested to him that it was not just Mr Coulson who expressed concerns to him. He said it was not the YOT worker. The concerns came from Cardinal Hume and were being re-expressed. He had spoken a lot to Emma Crawford and it was a concern from Cardinal Hume and not a concern she herself held.

134. Mr Brown was then referred to his notes from the age assessment interviews. He agreed that this was the best record of what was said at the interviews. He had subsequently written up his fifteen point conclusion. He did not recall the exact date it was sent to Cardinal Hume. It had to be checked off by his manager and sent to Creightons on the basis that there was a good chance of a later challenge. He wanted to run it by them as a precautionary measure. He had written up the fifteen points initially and then the rest, on Maz Mannan's advice. The people at Cardinal Hume had got the body of the report on 18 March and it had been written up over that period. Again it had to be signed off by a manager and checked by Creightons. It was in his words, based on his and Maz Mannan's thinking. He had forwarded it to Mr Mannan who had not thought anything needed changing. There were no changes in light of the conversations with Creightons that he could recall. Rewording might have been carried out in light of discussions, for example with a manager. In this regard he was referred to the email to him at tab 9 of the new bundle from Joanne Forster, his line manager. He was asked whether he recalled what she thought read a bit suspicious and he said he thought it referred to the terms he used. She had had an issue with him saying about the applicant lying about his age and they had disagreed about that and Mr Brown's view had prevailed.

135. He was referred to page 3 of his interview notes and the checks with the French Embassy. He agreed that he had given them the date of birth the applicant had given to him and the details of the parents and they had checked at Bordeaux Town Hall for birth certificates and did a check for French passports, and the date of birth was not registered in Bordeaux for the date the applicant gave and he had not been issued with a passport in that name. He was asked whether they had done a fingerprint check as suggested in the document at tab 1 of the new bundle and said that it was received after the age assessment and they were not going to revisit it. The applicant had also been checked under the name of Jerome Djabar. With regard to document 7 he was asked whether he had followed up the social services link referred to in the email from Dominique Fraser to him of 14 January 2013 and said he had not and he did not know why not.

136. With regard to the email from Cliff Fenton to Mr Brown of 17 January 2013, he said Mr Fenton had suggested within the LAC planning that was going on that Mr Brown contact international social services to try and track down the applicant's relatives and that Mr Brown had not done it. He had not got round to doing it. The reference to international social work at page 1 of the new bundle was an action point in that it had not been done.

137. Mr Brown said that he believed the applicant had lived in France and that he had grown up in Bordeaux. This was based on what he said and the interpreter who had been used when they went to the UKBA who said that the applicant did not have the accent of someone from Algeria but from the French suburbs, so he had either lived there all his life or a lot of it.

138. Mr Brown was referred to a copy of an email that he had sent to Richard Coulson on 17 January 2013. He was asked why this had not been disclosed and he said that there was a lot of disclosure, he had thought he had done a thorough search and looked at the threads rather than printing off everything. He was asked whether he had not challenged the chronology that the applicant gave in the interviews and he said they did suggest it. It was put to him that it was not recorded and he said it could be in Mr Mannan's notes. They had not recorded everything everyone said verbatim. With regard to page 2 of the second interview, he had believed the applicant's account of his journey to the United Kingdom. He felt no reason to doubt he paid 800 Euros to come to England. He was asked what it suggested to him about the applicant's status in France and said it depended upon which story one went on. It could be that the passport was with his father so he had made the trip or it could be he had a passport in a different name giving a different age, so he came here to obtain the services. It was put to him that the applicant had not claimed services but came into the hands of the local authority when he was arrested. Mr Brown said that in the interview the applicant showed he had knowledge of social services and what they could do and said that was why he got himself arrested. It was put to him that that was not in the notes and Mr Brown said it was in his statement and it could be in Mr Mannan's notes. The applicant had said the people he was staying with were Algerian people. He referred to family telling him that if he was arrested he should say he was 13 and would get help from social services. It was put to him that this was not in his notes and he said he had referred to it in his statement.

139. It was put to him that the applicant had not claimed leave to remain on arrival as a child but had gone to live with his "uncle" and that indicated he did not have lawful status in France and hence had come here as he did. He was under the radar in France. Mr Brown said there were unknown factors all along in this case and the applicant had been reticent about his history. It was only because they did not have the correct name and date of birth and if they did they could find out quite quickly.

140. He was asked whether he believed that the person with whom the applicant initially stayed in London was an uncle. He said it was difficult. His view had fluctuated. A lot of it was clouded in mystery. There were references to a family-type scenario in that part of London. It could be the uncle did not want to take responsibility for looking after him. It was put to him that the claimed uncle had a long history of offences and disappeared when the applicant was arrested. Mr Brown said that they did not know that he disappeared. The appellant had said he did. The police had done a check. They did not know why. It was put to him that an obvious reason was the concerns as expressed by the NSPCC trafficking officer that this was an indication of trafficking. Mr Brown said that there were several indications of trafficking in the case and a lot of other explanations for the applicant's experience.

141. As regards whether he believed the applicant's explanation in respect of the second arrest he said that you got truths and untruths with all that the applicant said and there was no competing story with which to assess it. He had had no reason to doubt what the applicant was saying. It was put to him that it sounded like the grandiose stories told by the applicant referred to by Ms Francis, and Mr Brown said he was not sure how to comment on that. He had no reason to doubt the applicant. He had taken it at face value.

142. Mr Brown was asked about the reference in his notes in the third age assessment interview to the applicant "no school in France". Later on he was recorded as saying that "went to primary school in France". Mr Brown said the applicant was clear that he went to primary school in France having initially said no. He believed that this was the case. It was an account the applicant had given and tied in with the Bordeaux accent and having spent a significant amount of time there.

143. He was referred to the fact that in the first interview the applicant had said he did a vocational advertising course. It was put to him that the applicant had told Mr Coulson he had done plumbing and Mr Brown said it was unclear whether he had been helping his father or doing a course. He had believed that. With regard to whether he believed he had done an advertising and plumbing course he said that with the former he thought he was telling the truth and it was his way of interpreting Infographie. He agreed that it was totally different. He did not recall asking him about it. It was put to him that there was no record of it. He was asked whether he believed the applicant did it at a private school and he said that they had taken him at his word. Mr Brown did not know whether the applicant knew what it was and what he meant. He did not recall asking him about it. He was asked whether it fitted in with the manner the applicant came to the United Kingdom and his offending behaviour and he said it could, a private school could mean something different to the applicant from what it meant to us. As regards the research he had done about French schools he said he had done internet research on vocational courses and the document he found described how schools were organised in France including vocational courses and starting ages. He had not saved that document. This kind of course would begin at age 15 minimum and was usually post-16.

144. He was asked about the reference to the applicant claiming to be Somali and being flippant and said yes, he thought the applicant was frustrated after the issue about Infographie. It was put to him that it would be unintelligent for the applicant to claim attendance at a vocational college if he was claiming to be a child and he said it had been seen in the context of the interview and if questions were asked it would be difficult to maintain a lie. With regard to the reference to the applicant saying "don't you worry", Mr Brown said he had always been very elusive about his money. He had told various stories. His mother sent money. He had told a former carer that he was working in an internet café. There was also criminal activity which was presumably done for profit. He did not agree with Mr Coulson about the sex work. He had not heard evidence of it. It was put to him that Mr Coulson said the signs were there and he was experienced in these matters. Mr Brown said he did not deny they were indicators, but they were indicators of many things. He was asked whether they got the receipts the applicant had said he would bring in respect of the Western Union funds and he said they had requested them from him but he was not forthcoming. It was put to him that that suggested he could not do it, and Mr Brown said it could suggest a lot of things, for example that he did not want them to contact his mother. It was put to him that they had her address and he said they were not able to contact her.

145. He was asked about his views of Ms Francis's evidence of the applicant having several hundred pounds. Mr Brown said that remained a mystery. He could not say how the applicant got it and where it went. He had previously bought a laptop. He said the money thing indicated that the applicant had been involved in criminal activity at various points.

146. He was referred to the words written at the top of page 3 of his notes at the third assessment "If I were Bilal I would scarper right now!" Mr Brown said that that had been written by his student and he had not known he was writing it and it was written for Mr Brown to see. He thought he had written it because of what the applicant had given away about the vocational course and his worsening mood in respect of that. He was asked whether by now he had made the decision and said he did not remember exactly when the student wrote it. He was asked whether this was representative of the attitude to the applicant at the interview and he said it ebbed and flowed. You had to be challenging as part of the procedure and needed to hone in on and explore flaws. The applicant did not like being challenged in this way. He would come in quite charming and witty but he would become more challenging later on. He was asked whether he thought the remark and his attitude were

inappropriate in the light of the trafficking view of the experts and he said their attitude was 100% appropriate and the student was only there to observe. It was put to him that professionals he had said gauged the applicant's age at 18 plus in fact said he was 16 to 18 and he said you had to see the notes as them bringing out ideas. It was put to him that it was he who had said it in the conclusion and he said that perhaps consensus was the wrong word and it was a majority. He was asked who and said it was the YOT and one of the doctors they had spoken to. It was put to him that they had recorded 16 and he said it was the other. It was put to him that the others had said 16 to 18 and 16 and Mr Brown said it could be incorrect and it was a contemporaneous note. The views were based on the behaviour at interview and wider issues.

147. It was put to him that he had earlier thought the applicant was 17 to 18 in the email and the record of referral. Mr Brown said he had recalled why he wrote that then. It was when the applicant needed a new placement and in his mind he had to fight with his managers to move the applicant as soon as possible and they had not wanted the move to happen. He did not know why. He had known that the best place for the applicant would be a hostel and the same thing would happen at another foster placement. He had written what he wrote about the age as the referral might not be accepted. It was put to him at the centre they took people from 16 to 21 so it would not interfere with the referral. He said there might be a worry about the vulnerabilities of the other young people in the hostel. He was referred to tab 5 of the slim bundle where he had signed to say that the information he had provided was correct. It was put to him that he was now saying it was incorrect and that this was deliberate. He said no, the assessment had been completed. He was referred to what he had said on 9 January 2013 about the applicant being 17 to 18 and that he had signed it and he said this was a view. He was asked whether he was seriously saying that he thought the applicant was over 18 and was trying to deceive Cardinal Hume to fudge the referral by writing this and Mr Brown said the age assessment had not been completed and some people did feel he was 17 to 18. It was put to him that he was the referrer and that was the implication and he said there was a certain amount of ambiguity. It was put to him that he had created an impression and that was not his view and he said his view was within the Cardinal Hume age bracket, and it would be different if he had thought the applicant was 25. It was put to him that he had said there was a concern that if he said the applicant was an adult they might not take him, for example because of vulnerable people. He said he had been worried that other people would be prioritised and there were limited placements there and he wanted him in that placement on that day. He was asked whether he had given Cardinal Hume a misleading impression to get the applicant in and said it was a leading question and it could not be yes or no. It was tailored to people in that age bracket and he wanted to get him in there with his general wellbeing at heart. He was asked whether he had written the applicant was 17 to 18 to get him in and said he had done it to help the referral and it could not guarantee it. The age assessment was ongoing. He did not have a fixed view but the evidence was going towards the final view. He was referred to tab 4 of that bundle as well where he was quoted as saying that he thought that the applicant was 17 to 18 and he said that was on 17 December and the view changed and evolved. It was put to him that the best evidence of his view on 17 December and 9 January was that the applicant was 17 to 18 but he was now saying why he said that which was trying to oil the process of referral to Cardinal Hume which it was argued was a dishonest impression to Cardinal Hume in a document supported by a statement of truth. Mr Brown denied that there was any tailoring of the evidence. He said that on the previous day when he gave evidence he had felt under a lot of pressure and hence he had returned to it today. He had said all he could say about the referral now.

148. Mr Brown was asked whether he had asked the applicant at the third interview why he had lied about his age and he said he thought that Maz Mannan had asked him. He agreed that the answer



was not recorded there. Not everything was recorded there but what was noted down were essentially memory prompts. It was a matter that the applicant had never been able or willing to answer. He did not recall if the 1991 birthday point had been addressed at the interviews. As regards whether he had thought the applicant was born in 1991, Maz Mannan and he had arrived at the age of 20 as it seemed to be the age they felt the applicant was. He had given a variety of dates of birth. As regards his levels of English and French, concerning the former it was thought to be beyond someone who claimed to have spent a lot of time outside the educational system. Mr Brown agreed that children could learn languages outside school. It was a point that Maz Mannan had made which Mr Brown had agreed to incorporate but was not a main point for him. As regards the applicant's response at the end of the assessment, it was put to him that it was not like that of an assertive adult, and he said that it was all in the delivery and it was in a "not bothered" way. They had given him the weekend to leave. The reasons in the body of the report did not reach the applicant as quickly as they could have done. The decision about ending finance for the applicant was a decision for Mr Brown's managers. It was unfortunate that they did not get the conclusions to him. In fact Cardinal Hume had kept him on. He was asked whether he accepted that it was unfair to terminate services before the applicant was given the decision and he said that they had made an assessment and at that point their duty to him ceased.

149. Mr Brown was referred to the further handwritten notes of 21 pages at the back of the main bundle. He was asked whether he thought it was unusual for a person of 16 or 17 to be concerned with their appearance and he said it depended on the person and many were. It was not uncommon. They had considered all the evidence before them. It was another facet. It was put to him that there a danger if one did so of not looking at each piece of evidence fairly but tailoring each piece to the overall view. Mr Brown said it was the same as his view on trafficking and it was the view he had taken. His view had evolved. The evidence had stacked up towards their final conclusion. He thought the evidence showed he did not have a preconceived view. In December he had thought the applicant was 17 to 18 and his view had developed. He had had an open mind over the time. Before 17 January 2013 he had had an open mind about the applicant's age. One's thinking went in a certain direction and his mind had not been made up. It was put to him that this particular factor of the applicant's appearance if anything favoured him being 16 to 17, though he had said it indicated he was older. Mr Brown said that one focused on one bit of evidence. He said that they took a different view. It was been interpreted in conjunction with the other evidence they had. Page 13 was part of Mr Brown's notepad. It contained a reference to the applicant wearing a ring on the third finger of his right hand. It was put to him that it was not on the ring hand or finger and Mr Brown said it was hard to determine what this source was from as there was no date. It looked like a conversation with the former carer. He agreed that there was no other record. He had not raised the ring at the age assessment and that had been an oversight. He had the evidence of it from his own eyes when he had accompanied the applicant to the UKBA interview. He could not say what finger the ring was on then. The applicant had been candid as to why he was removing it. That interview had been an opportunity to claim asylum and see what they could do with him with no documentation. He had not been hiding the ring from Mr Brown and Mr Brown did not know why the applicant said what he did. He could not say whether the claim to the YOT to be married to a 23 year old Canadian was true. He had heard what Ms Francis said about that. He said the applicant lied about a lot and it could be difficult to piece together what was real and what was not. He did not know whether it was said to make himself seem older.

150. It was put to him that he was happy to infer things when it favoured the applicant trying to appear younger and Mr Brown said he was bound to look at it with concern. He did not know what he made of it. There was also the point about the applicant saying he was 13 in the United Kingdom. It

was evidence of him continually misrepresenting his age. It was put to him that it was hardly indicative of him being younger and Mr Brown said that the applicant's game plan all along had been to deceive professionals. As to whether it was a weak part of such a plan he could not comment on the applicant's plan. The applicant made slipups. They had thought it significant and it was a lack of consistency and it could mean he was older. It was put to him that it was not in itself an indication that he was older, Mr Brown said it was not taken on its own but taken with the other evidence, yes. As to whether he believed the applicant had a 23 year old girlfriend in Canada, Mr Brown said that he believed the applicant did at the time. He had talked about her and seemed convincing in what he said. He understood Ms Francis thought that this was rubbish and said that they disagreed. It was hard to know what to make of what the applicant said about going to Sweden at the time. Mr Brown had been worried for him. He had taken drugs and had just been released from custody and it was very hard to keep him on track. He did not agree with Mr Coulson that it was an indication of trafficking. When asked why, he said that they had accepted that the applicant had arranged his own journey to the United Kingdom from France and had clearly wanted to get away from his police troubles. He had been very erratic and incoherent. No doubt the applicant knew people who could get him into Sweden for that money. He had talked in terms of him organising it himself.

151. With regards to the Roche tablets, it was put to him that that issue was not addressed in the age assessment interviews. Mr Brown said he did not recall if it was. He did not know the date of these notes but it could be early February from his memory of the visits they did. This was where the Roche tablets point began. The applicant had visited him in his office. The applicant did not say that he had been prescribed Clonazepam.

152. He was referred to tab 11 which was a review document written up after the event. He had spoken to CAMS and they had said they could not do anything. He had done an internet search with the applicant present and the applicant had identified one tablet which he said was the one he had been prescribed and he was 100% certain. It was put to him that it would not be prescribed by a psychiatrist as it referred to epilepsy and Mr Brown agreed. He had done internet research on Clonazepam. He did not recall what the evidence he found was and he had not produced it.

153. He was referred to a document on Clonazepam which Mr Buttler had found on the internet and the fact that it included prescription for children. Mr Brown had not seen this document. He drew attention to the difference in the amounts prescribed to children and adults. He said that it might not have been Clonazepam. He had gone on what the applicant had said. He was asked what the position would have been if it had been Diazepam and he said that he had seen that the packaging was similar.

154. On re-examination Mr Brown was referred to the document produced by Mr Buttler which was emailed from Richard Coulson to him on 17 January 2013. It was suggested to him that this had been disclosed on 16 July and Mr Brown said he thought that was the case. He was also referred to page 3 of the document produced by Mr Buttler concerning Clonazepam and what it said about children and mental health information Mr Brown said it supported his view

155. That concluded the evidence.

156. I am grateful to Mr Buttler and Mr McGuire for their written and oral closing submissions. I do not propose to set these out in this determination as it is quite long enough as it is, but before assessing the evidence and coming to conclusions I have read with care what both of them have had to say about the evidence and the conclusions to be drawn from it.

157. Clearly I have not been able to form a view of the applicant based on his physical appearance and demeanour before me. If those had been pivotal matters it would have been necessary to accede to the adjournment request. However, I did not consider that I would be materially disadvantaged by not seeing and observing the applicant with a view to coming to a conclusion as to his age. I shall have to say something about his credibility in due course and that is a not irrelevant aspect of the claim. I think it is effectively common ground that it would be extremely difficult if not impossible to assess his age simply from his physical appearance. Conflicting views have been expressed as to his demeanour and I am doubtful that I would have been significantly assisted by having observed the applicant in the course of the hearing. Of much greater significance are, as Judge Pearl pointed out in AM , the views of professionals trained in the various fields who have obtained a view of the applicant over a number of sessions. In this case such assistance is to be derived from the views of in particular Mr Coulson, Ms Francis and Mr Brown who have observed the applicant over a period of time and to a lesser extent the views of Mr Shamyarira, since he saw the applicant only for an hour and a half, and inevitably less weight can be attached to the views he came to.

158. It is of the course the case that not only have I not heard oral evidence from the applicant, but he has never put in a witness statement. His case, or the case put forward on his behalf, insofar as it has been put forward, is to be gleaned from the various interactions he has had with the witnesses, and I think that it is again common ground that there are, to say the least, some difficulties with his evidence. It is necessary to identify the problems with his evidence and to try and assess what the significance of the discrepancies, implausibilities and failures to provide evidence is in the context of the claim as a whole.

159. In his closing submissions Mr McGuire set out at paragraph 13 twelve particular factors which it was said put the applicant's explanation to the respondent of his personal history into ruins. These are as follows:

- (a) The evidence from the French Embassy which indicated that he was not born on 27 December 1996 as claimed. There was no record of anyone of that name being born there with that date of birth.
- (b) Likewise there was no record of his parents (or rather anyone with their names and dates of birth) having lived there.
- (c) He said that the documentation, in particular his passport, was with his father, but did not produce it despite having said he would do so several times.
- (d) He gave no home address in Bordeaux.
- (e) Inconsistent accounts as to who was in the house, when. Did his mother go back to Algeria when he was eighteen months old, or did she go back, with him, later?
- (f) He could not recall his school's name.
- (g) Nor could he recall how long he stayed in Algeria.
- (h) Nor could he state with whom he returned.
- (i) Nor could he remember the name of the college which he attended.
- (j) Nor did his account that he started an Infographie course there three to four years ago, which could only have started at age 15, fit his case that he was only 16.
- (k) None of this fitted his previous contention that he was only 13.

(l) An explanation has been provided through his solicitors as to why his mother cannot give evidence which does not fit with his account above: she now says that his was a secret birth.

160. Further concerns were set out at Mr McGuire's paragraph 15:

(a) His mobile phone was in the name of his alias Jerome which had the date of birth 27 December 1991, i.e. the same birthday but five years older exactly than his then-claimed age and eight years exactly more than his initial claimed age.

(b) His response in conversation with Mr Brown when he would not deal with his phone as asked was revealing: having written down the date of birth he tore it off the page and when he asked later whether Sam Brown had picked it up and was told yes he shrugged.

(c) He commented directly to Sam Brown when taking off his ring and watch that he was doing so in order to make himself look younger.

(d) His "Infographie" answer was a plain admission that he was 18 to 19.

(e) His response on giving that answer in interview indicated to Sam Brown that he was aware that he had made a slip up.

(f) Clonazepam is not given to someone so young as the applicant claimed to be.

(g) Counselling for someone so young as his claimed age would be striking.

161. Mr Buttler's response to this is geared rather to the fifteen points advanced in support of Mr Brown's view that the applicant was 20, but I will relate these to points put forward by Mr McGuire even if it takes them out of the order set out by Mr Buttler.

162. With regard to the point of the French authorities not finding anyone with the applicant's name and date of birth registered in Bordeaux, Mr Buttler makes the point that the only checks done were as to whether the applicant had a French birth certificate or a French passport and it is argued that the absence of these did not logically undermine his account of living in Bordeaux. It can, however, be seen from Dominique Fraser's email to Sam Brown of 17 December 2012 that nobody with the applicant's name was born in Bordeaux on the date that he gave her. She also did searches in respect of his parents whose names and dates of birth were given and made searches at the town hall in France and the directory in the Bordeaux area and could not find any details with those names.

163. I assess this as evidence of some significance. The interpreters were apparently confident that the applicant spoke French with a French rather than an Algerian accent and it was consistent with his claim to be a French national and someone who had spent a good number of years in France. The checks carried out by Dominique Fraser are clear. This is a matter on which the applicant has lied. Although there is evidence of efforts made on his behalf by his solicitor, they led to the same outcome. It is also relevant that he made no effort to obtain the documentation which he said had been left at his father's house. It is also relevant that he did not give a home address in Bordeaux despite having claimed to live there for several years at an age when he could be expected to remember it. In this regard it is, however, relevant to bear in mind the point made by Mr Buttler that what he has done in effect is refuse to give a full history, and that that could indicate that his full history is being concealed because it would reveal him to be older but there needs also to be borne in mind the expert opinion of Mr Coulson and Mr Shamuyarira that this was a sign of trafficking.

164. No doubt the same comment is of relevance to the inconsistencies in the applicant's account and as between him and his mother as to his movements between France and Algeria. That is clearly on the face of it at least damaging to his credibility, and as I said when refusing the adjournment application, anything he might say at the end of any reflection and recovery period that he was offered and took advantage of would still have to be assessed in the light of the earlier evidence. But, on the face of it at least, these are discrepancies which go adverse to the applicant's credibility.

165. As regards the issue of the Infographie course, it is the case that Mr Brown, as Mr Buttler pointed out, has not produced documentation to back his recollection of the internet search that he carried out. Mr Buttler's point on this is that the matter is highly speculative. Ms Francis's evidence was that at the Cardinal Hume Centre the applicant showed less aptitude with computers than the other young people and there was no objective evidence of how Infographie is taught or to which age groups. The point in my view is a neutral one only.

166. As regards the point that the applicant had originally claimed to be 13 and subsequently changed that to 16, the point is made by Mr Buttler that this indicates only that he told a lie and does not logically indicate that he is 20. He considered it to be more significant that the Magistrates' Court believed the applicant, another matter to which I shall return below.

167. As regards the point that he had used the date of birth of 27 December 1991 to unlock his phone and told the YOT worker that he was 21, Mr Buttler makes the fair point that the respondent does not think that the applicant was born in 1991 so this was not a case of him letting the truth slip. It might be said to be indicative of person claiming to be a greater age than he was, but the reasons for doing that are, as was suggested in evidence, many, and may just as easily relate to a person trying to get access to information which his actual age denies him.

168. As regards the evidence that he said he was 21 and claimed to be engaged to a 23 year old woman in Canada and had a 23 year old girlfriend in London, these are matters that seem very much to chime with Ms Francis's view of the grandiose ways in which the applicant expressed himself from time to time.

169. The issue of him taking off his ring and watch to make himself look younger is a matter that emerged in particular from Mr Brown's evidence. The point is clearly a relevant one. The issue about the Clonazepam is I think essentially neutral. It seemed clear from the documentation that was produced by Mr Buttler that, as Mr Brown accepted, it could be that it was not Clonazepam that the applicant was talking about and of course epilepsy drugs would be most unlikely to be prescribed by a psychiatrist. Clonazepam can in any event, it seems, be given to children albeit in much smaller doses than would be given to adults. The suggestion that counselling for somebody as young as the applicant claims to be is unlikely is a fair comment but it is clearly not an impossibility.

170. Taking the credibility issues as a whole, I consider that there are matters in relation to which the applicant's credibility is damaged. The matters to which I attach particular weight are the fact that there was nobody of his name and date of birth who could be identified as having been born in Bordeaux when he claimed or at all (and nor could his parents be identified from their names and dates of birth), and the discrepancies in the accounts given by him and as between him and his mother of his movements between Algeria and France. It is, in any event, common ground that he is not a person of truth, though there is clear disagreement as to the reasons for this. For the applicant it is argued that these answers can be explained on the basis that he is a victim of trafficking; for the respondent it is argued that they are evidence of a person older than he claims to be who is lying about his age. These matters will require to be factored into the overall assessment.

171. As I stated earlier on, I consider that particular significance is to be attached to the view of the professionals in this case who have given evidence as to the claimed age. I start with the evidence of Mr Coulson.

172. Mr Coulson has a good deal of relevant experience as set out above, taken from his witness statement and his oral evidence. He observed the applicant on a very regular basis between 11 January 2013 and 17 April. He observed him interacting with other people in the same age group and among other things developed concerns as to whether or not he had been trafficked. I find Mr Coulson to be a credible witness, subject to the minor caveat that he was reluctant to accept the implications of the applicant not being identified in the French system. His experience shone through, and he provided balanced and clear answer to the questions he was asked. His view as expressed in the witness statement was that he and his colleagues who had daily contact with the applicant believed him to be a minor not much older than his claimed age of 16. In his oral evidence he said that he thought he was 16 or 17 perhaps, and felt very confident, though properly not 100% sure, in that assessment. Clearly weight must be attached to his views.

173. Likewise Debra Francis was a careful and credible witness. She again has significant experience of young people in the applicant's age range and she was involved with him prior to taking over from Mr Coulson in mid-April and had seen him every day since, presumably other than the time he was in the young offenders' institution. Again she has observed the applicant in the context of other young people between the ages of 16 to 21, as well as attending meetings with him and seeing him daily, between ten minutes to half an hour as she said at paragraph 6 of here statement, depending on the situation. She said in her statement that nothing in her dealings with him indicated to her that he was an adult. She estimated him as being 16 or 17 and was not sure she would go as far as 18, given his needs. Like Mr Coulson her comments were evidence-based and, in my view, objective. Again her evidence deserves significant weight to be attached to it.

174. Mr Shamyarira of course has had much less time in the company of the applicant. He spent about an hour and a half with him and he thought he was in the 16 to 18 age range. Given his experience this is again relevant evidence, though it does not have the same weight attached to it as that of Mr Coulson and Ms Francis given the lesser period of time he spent with the applicant.

175. Mr Brown saw the applicant on average once every two or three weeks between November 2012 and mid-February 2013. He was not in a position where he observed him regularly in the company of other young people of his age and he has significantly less experience than Mr Coulson and Ms Francis. This was his first age assessment, and of course there always has to be a first age assessment, and wisely it was done in the company of a more experienced colleague, though unfortunately we do not have the notes of his colleague Mr Mannan and he did not give evidence.

176. It seems that Mr Brown's view of the applicant's age earlier on was that it was between 17 and 18 and this changed during the age assessment interview process to the conclusion that he was aged 20. This was of course a view that he reached in conjunction with Mr Mannan. I have referred above to the various factors set out in the age assessment which led Mr Brown to conclude as he did about the applicant's age. Some of these are clearly more weighty than others. A matter of concern must be Mr Brown's point that the majority consensus among the professionals who had been involved with the applicant was that he was older than the age he claimed to be. Certainly the foster carer who looked after the applicant for two months believed he was age 20 or older. However, we do not have a statement from her, and she did not give oral evidence and therefore her evidence was not tested under cross-examination. Her basis for concluding that the applicant was 20 appears therefore

somewhat unclear. Otherwise there are the points set out at paragraph 7 of Mr Buttler's closing submission. The first of these confirms the view of the Magistrates' Court. As he notes, a Magistrates' Court is obliged to come to a view of the age of a young person and it accepted he was 13. Clearly, even on the applicant's evidence as it now is, that was wrong, but it is nevertheless not a view that he was older than he claimed to be. The police view, as set out in document 1 of the slim bundle was that he appeared to be 16 to 18. The YOT in the same document said that on observation he did not look 13 years of age and would suggest 16+, potentially an adult. The doctor at the Looked-After Child medical review thought that he was between 16 and 18. As is said in Mr Buttler's closing submissions, the contemporaneous document must be the best evidence on the point rather than Mr Brown's recollection of what was said. The child protection medical report expressed the medical opinion that the applicant was a 16 year old boy. Again there is no contemporaneous evidence to support Mr Brown's claim that the doctor indicated that he was 18. So some of the details at paragraph 13 of the conclusions of the age assessment are not accurate. In particular what is said there about the doctor who carried out the Looked-After Child medical examination, the YOT worker's view and the Chelsea and Westminster Hospital doctor is incorrect. The disappearance of both the matrix prepared by Mr Brown, and Mr Mannan's handwritten notes is also troubling.

177. I have thus some concerns about Mr Brown's evidence. A particular matter of concern must be the fact that he sought to resile from what he had said in the statutory referral where it was said that it was felt the applicant might be aged between 17 and 18. Mr Brown signed this document confirming that the information he had provided was correct. On the second day when he gave oral evidence he sought to resile from this on the basis that he had been anxious to get the applicant into the Cardinal Hume Centre and wanted to make sure he would get there by giving an age assessment that fell comfortably within the ages of those who are in that centre. If he was not of the view that the applicant might be aged between 17 and 18 at that time then it is a matter of concern that he was prepared to sign a statutory declaration that the contents of the document were true. If he was of that view then it requires some explanation in light of the subsequent view reached that the applicant was in fact 20. The matter may perhaps be explained on the basis that Mr Brown's view of the applicant's age continued to evolve during the time when he saw him and the ultimate conclusion that he was 20 was one arrived at at the conclusion of the age assessment interviews. However, that is as I say a matter of some concern, as is the fact that at paragraph 13 of the summary to the age assessment he appears to have misstated somewhat the views of some of the professionals who had given views as to the applicant's age. And, of course, his mistaken view as to what they said may have influenced his subsequent conclusion as to the applicant's age.

178. I must bring all these matters together and come to a conclusion on the issue before me. The applicant is a person who lacks credibility. I do not think that it can be said simply that anything in his evidence that is untrue or inconsistent can be explained away by the fact that he may have been trafficked. All that has been done so far is that a recommendation has been made that it be considered to see if there are reasonable grounds to assess that he has been trafficked. As I said when refusing the adjournment request, it is not known whether he will be referred and it is not known what, if anything, he would say during the period of recovery and reflection. And in any event what he had to say at such a time would have to be set against his other evidence. So, although there is no basis for me to factor in any views of my own on the applicant's appearance and demeanour, I think it has to be taken into consideration in this case that on material aspects of his claim he has told untruths and these must be taken into account.

179. This has to be seen in the context of the evidence of the professionals who have observed the applicant. The essential consensus of those to whose evidence the greatest weight must be attached is that he is somewhere in the 16 to 18 range. I find it impossible to conclude that the applicant is the age he has claimed to be. If he were, then that information would have led to his identification by the French authorities. I am satisfied that whatever age he is, he was not born on 27 December 1996. It is however a date of birth that he has constantly asserted when he was claiming to be 13 and when he wished to be regarded as 21, and for what it is worth it is also the date of birth that his mother gave for him. Doing the best I can with the evidence I have, I have concluded that his date of birth was, on a balance of probabilities, 27 December 1995 which means that he is currently 17 years and some seven months old.

Signed Date

Upper Tribunal Judge Allen