



Case No: JR-2025-LON-002307

IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)



JR-2025-LON-002307

Field House,
Breams Buildings
London, EC4A 1WR

2 July 2026

Before:

UPPER TRIBUNAL JUDGE O'BRIEN

Between:

THE KING
on the application of
NAN
(anonymity direction made)

Applicant

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

- and-

HERTFORDSHIRE COUNTY COUNCIL

Interested Party

Eva Doerr
(instructed by Wilson Solicitors) for the applicant

Lord Murray of Blidworth
(instructed by the Government Legal Service) for the respondent

Hearing date: 14-15 April 2026

J U D G M E N T

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the applicant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the applicant, likely to lead members of the public to identify the applicant without his express consent. Failure to comply with this order could amount to a contempt of court.

Upper Tribunal Judge O'BRIEN:

1. The applicant challenges the assessment dated 7 October 2024 (maintained on 3 December 2024) in which the National Age Assessment Board (NAAB) decided that the applicant's date of birth was 1 January 2004, making him 20 on arrival. The applicant claims that his date of birth is 29 February 2008 and thus that he was 16 on arrival.
2. On 8 January 2026, the Single Competent Authority decided that there were reasonable grounds to believe that the applicant has been the victim of forced labour. Consequently, Ms Doerr applied for the applicant to be treated as a vulnerable witness. Lord Murray had no objection and so it was agreed that questions would be put sensitively and that the applicant would be given breaks when necessary.
3. The applicant had previously acted through a litigation friend. However, having turned 18 on 29 February 2026 even on his own case and it not being suggested that he otherwise lacked capacity to conduct litigation, the applicant no longer requires a litigation friend.

Issues

4. The single issue to be determined is the applicant's date of birth.

Relevant law

5. The NAAB was established by the Nationality and Borders Act 2022 to oversee a new system for assessing the age of persons requiring leave to enter or remain in the United Kingdom in circumstances where the respondent, a local authority or a specified public authority has insufficient evidence to be sure of their age.
6. Section 50 of the 2022 Act (as to be read until ss54 & 56 of the 2022 Act enter into force, in accordance with regulation 4 of the Nationality and Borders Act 2022 (Commencement No. 5 and Transitional Provisions) Regulations 2023) provides:

'50 Persons subject to immigration control: referral or assessment by local authority etc

- (1) The following authorities may refer an age-disputed person to a designated person for an age assessment under this section—
 - (a) a local authority;
 - (b) a public authority specified in regulations made by the Secretary of State.
- (2) Subsections (3) and (4) apply where—
 - (a) a local authority needs to know the age of an age-disputed person for the purposes of deciding whether or how to exercise any of its functions under relevant children's legislation in relation to the person, or
 - (b) the Secretary of State notifies a local authority in writing that the Secretary of State doubts that an age-disputed person in relation to whom the local authority has exercised or may exercise functions under relevant children's legislation is the age that they claim (or are claimed) to be.
- (3) The local authority must—
 - (a) refer the age-disputed person to a designated person for an age assessment under this section,

- (b) conduct an age assessment on the age-disputed person itself and inform the Secretary of State in writing of the result of its assessment, or
- (c) inform the Secretary of State in writing that it is satisfied that the person is the age they claim (or are claimed) to be, without the need for an age assessment.
- (4) Where a local authority—
 - (a) conducts an age assessment itself, or
 - (b) informs the Secretary of State that it is satisfied that an age-disputed person is the age they claim (or are claimed) to be,
 it must, on request from the Secretary of State, provide the Secretary of State with such evidence as the Secretary of State reasonably requires for the Secretary of State to consider the local authority's decision under subsection (3)(b) or (c).
- (5) Where a local authority refers an age-disputed person to a designated person for an age assessment under subsection (1) or (3)(a), the local authority must provide any assistance that the designated person reasonably requires from the authority for the purposes of conducting that assessment.
- (6) The standard of proof for an age assessment under this section is the balance of probabilities.
- (7) An age assessment of an age-disputed person conducted by a designated person following a referral from a local authority under subsection (1) or (3)(a) is binding—
 - (a) on the Secretary of State and immigration officers when exercising immigration functions, and
 - (b) on a local authority that—
 - (i) has exercised or may exercise functions under relevant children's legislation in relation to the age-disputed person, and
 - (ii) is aware of the age assessment conducted by the designated person.
 But this is subject to [section 54\(5\)](#) (decision of Tribunal to be binding on Secretary of State and local authorities) and [section 56](#) (new information following age assessment or appeal).⁷
- (7A) Subsection (7) does not prevent a designated person from carrying out a further age assessment on an age-disputed person ("P") if they become aware of new information in relation to P's age which is significant new evidence.
- (7B) New information is "significant new evidence" if there is a realistic prospect that, if a further age assessment were to be conducted on P, taking into account the new information, P's age would be assessed as different from the age determined in the first age assessment.
- (7C) Subsection (7) applies to a further age assessment carried out under subsection (7A) as it applies to an age assessment conducted by a designated person following a referral from a local authority under subsection (1) or (3)(a).⁷

7. Lord Murray suggests in his skeleton argument that the task of the Upper Tribunal in age assessment judicial review applications has changed in light of the process established by the 2022 Act, such that 'appropriate weight and, in certain circumstance, a margin of deference' should be afforded to NAAB decisions. However, he clarified that, for the purposes of this case, the submission was an invitation only to have regard to a witness's expertise when giving weight to their evidence, rather than to depart from the law as explained below. He expressly accepted that the principles below continue to hold good.
8. The applicant's age is a question of fact for the reviewing court to determine for itself (R (HAM) v Brent London Borough Council [2022] EWHC 1924 (Admin)). In R (AB) v Kent County Council [2020] EWHC 109 (Admin) at [21], Thornton J summarised the relevant guidelines that apply to age assessments. Those relevant to my task are as follows:

'Purpose of the assessment

- (1) The purpose of an age assessment is to establish the chronological age of a young person.

Burden of proof and benefit of the doubt

- (2) There should be no predisposition, divorced from the information and evidence available to the local authority, to assume that an applicant is an adult, or conversely that he is a child.

- (3) The decision needs to be based on particular facts concerning the particular person and is made on the balance of probabilities.
- (4) There is no burden of proof imposed on the applicant to prove his or her age.
- (5) The benefit of any doubt is always given to the unaccompanied asylum-seeking child since it is recognised that age assessment is not a scientific process.

Physical appearance and demeanour

- (6) The decision maker cannot determine age solely on the basis of the appearance of the applicant, except in clear cases.
- (7) Physical appearance is a notoriously unreliable basis for assessment of chronological age.
- (8) Demeanour can also be notoriously unreliable and by itself constitutes only '*somewhat fragile material*'. Demeanour will generally need to be viewed together with other things including inconsistencies in his account of how the applicant knew his/her age.
- (9) The finding that little weight can be attached to physical appearance applies even more so to photographs which are not three-dimensional and where the appearance of the subject can be significantly affected by how photographs are lit, the type of the exposure, the quality of the camera and other factors, not least including the clothing a person wears.

Conduct of the assessment

...

- (16) An assessment of the applicant's credibility must be made if there is reason to doubt his/her statement as to his/her age.

...

9. In MVN v London Borough of Greenwich [2015] EWHC Civ 1942 (Admin) at [27], Picken J held that:

‘...the primary focus is on the credibility of the person’s evidence concerning his or her age, but that it is permissible to have regard to credibility more generally provided that, in looking at credibility more generally, the primary focus to which I have referred is not forgotten... general credibility needs to be factored into the evaluation of the Applicant made by the Court, but... there needs nevertheless to be care taken so as to ensure that particular importance is afforded to the credibility of evidence in relation to age’

10. At [28], Picken J accepted that the following principles also represented useful guidance in age assessment cases:

- (1) Decision makers considering asylum claims should take everything material into account. Their sources of information will frequently go well beyond the testimony of the applicant and include in-country reports and expert testimony: **Karanakaran v Secretary of State for the Home Department** [2000] EWCA Civ 11 per Sedley LJ in his judgment at [2].
- (2) It is an error of law for a decision maker to seek to assess the credibility of a claim in isolation without considering other relevant evidence such as reports regarding a country that corroborate a person's claims: **R v Immigration Appeal Tribunal ex p Ahmed** [1999] INLR 473.
- (3) It is also an error of law to fail to take account of relevant expert evidence when assessing credibility: **Mibanga v Secretary of State for the Home Department** [2005] EWCA Civ 367.
- (4) Further, in assessing credibility in the context of trafficking, this must be done "*in the round*": **R (AA (Iraq)) v Secretary of State for the Home Department** [2012] EWCA Civ 23 at [67] per Sir David Keene.
- (5) Allowances should be given to the fact that asylum seekers (and similarly victims of trafficking) may have problems giving coherent accounts of their history: **R (N) v Secretary of State for the Home Department** [2008] EWHC 1952 (Admin) at [25] per Blake J ("*most people who have experience of obtaining a narrative from asylum seekers from a different language or different culture recognise that time, confidence in the interviewer and the interview process and some patience and some specific direction to pertinent questions is needed to adduce a comprehensive and adequate account*").

and at [29] that, in evaluating evidence, caution must be paid to distinguishing between internal inconsistencies in a person's account giving rise to concerns about credibility and a decision maker's own assumptions of how a person ought to have behaved. In that regard, he quoted the dicta of Neuberger LJ in HK v Secretary of State for the Home Department [2006] EWCA Civ 1037:

“Inherent probability, which may be helpful in many domestic cases, can be a dangerous, even a wholly inappropriate factor to rely on in some asylum cases. Much of the evidence will be referable to societies with customs and circumstances which are very different from those which the members of the fact-finding tribunal have any (even second hand) experience.”

11. In R (NXP & NAN) v SSHD (Age assessments: venue – respondent) IJR UKUT 00192 (IAC), this Tribunal determined one of the issues raised by the respondent in this application: the correct respondent to a challenge to an age assessment decision of the NAAB. In short, the correct respondent to such a decision is indeed the Secretary of State for the Home Department, and the correct venue for such a challenge is this Tribunal.

Agreed facts

12. The following background facts are not in issue. The applicant is a national of Afghanistan and one of seven siblings. He and one of his brothers, SA, left Afghanistan together in or around February 2022 and travelled the United Kingdom via Turkey, where they were separated.
13. SA arrived in the United Kingdom on 5 May 2023 and was interviewed on that date. He is recorded as having given the applicant's age as 20 in that interview. SA gave a date of birth of 3 June 2006, making him 15, which was ultimately accepted. Amanda King was SA's social worker between 11 May 2023 and 3 June 2024. At some point in June 2023, Ms King created a genogram in respect of SA, which also recorded the applicant's age as 20. On 3 August 2023, SA gave the applicant's age as 16.
14. The applicant arrived in the United Kingdom on 3 March 2024. He told immigration officers that he was 16 years old and was given a date of birth of 1 January 2008. The respondent did not accept the applicant's claimed age; however, she did not consider that he was obviously well in excess of 18 years old and so placed him in child-appropriate accommodation under the care of the interested party.
15. On 7 May 2024, the applicant began attending Townsend Church of England School. On 15 May 2024 Amanda King produced an observation report on the applicant, in which she stated amongst other things that she believed the applicant was older than 16 and could possibly be 19-22.
16. On 9 July 2024, the interested party referred the applicant to the NAAB. An introductory meeting was held on 15 August 2024, information gathering meetings took place on 19 and 20 August 2024 and a 'minded to' meeting was held on 29 August 2024. The challenged decision was made on 7 October 2024 and an outcome meeting was held that day with the applicant.
17. The applicant has for the last two or so years studied at North Hertfordshire College, Stevenage. One of his teachers is Deborah Whittle.

18. On 8 November 2024, the applicant sent a pre-action protocol letter to the respondent challenging the age assessment decision, and the respondent replied on 19 November 2024 maintaining that decision. On 20 November 2024, the applicant provided the respondent with a photograph of a document he claimed to be his Tazkira, which he said SA had obtained from their eldest brother N. On 3 December 2024, the respondent decided that the Tazkira did not amount to ‘significant new evidence’ and that a further age assessment was not therefore required.
19. On 26 March 2026, the applicant provided a witness statement from Deborah Whittle, then of North Hertfordshire College, in support of his claimed age. It was confirmed at the hearing that the respondent had decided that this also did not amount to ‘significant new evidence’ and again that a further age assessment was not therefore required.
20. Whilst not formally accepted by the respondent, the following matters appear to be beyond reasonable contradiction. On 7 May 2023, and so 2 days after his arrival, SA told his assessing social worker that the applicant was in fact 15 years old and that he himself was the fourth of the seven siblings.

The Key Dispute

21. The applicant claims to have been aged around 13 when he left Afghanistan but not to have known his date of birth until recent receipt of his Tazkira, which gives his date of birth as 29 February 2008. He claims therefore to have been aged 16 on arrival in the United Kingdom. The respondent does not accept the applicant’s claimed age or the genuineness of the Tazkira but instead assesses his age as (now) 22, with an assigned date of birth of 1 January 2004.

Evidence and submissions

22. On behalf of the applicant, I heard evidence from him, his brother SA, Erinc Argun Kayim, Deborah Whittle and Dr Antonio Giustozzi. The evidence of Dr Zadeh regarding authentication of the Tazkira was no longer relied on by the applicant; however, the respondent continued to rely on the rebuttal evidence of Ellen Radley, it being said that her reports went further than merely addressing Dr Zadeah’s shortcomings. The respondent also relied on statements from two of the social workers involved in the applicant’s case, Amanda King of the interested party and Suraiya Patel of the NAAB. In accordance with the case management directions of Upper Tribunal Judge Norton-Taylor dated 25 November 2025, the social workers were not required to attend for cross-examination, but the applicant was nevertheless entitled to make submissions on their evidence, notes and assessments.
23. Whilst I refer below only to such matters as are necessary to understand my decision, I have taken into account the parties’ evidence and submissions in their entirety.

Conclusions and reasons

24. The issue to resolve is the applicant’s date of birth (and therefore age). I make no determination whatsoever on the merits of the applicant’s protection claim and/or his claim to be a victim of trafficking. Any finding or observation regarding the credibility of the applicant’s account is in the context of the limited issue of dispute between the parties: the applicant’s age and date of birth.
25. The relevant legal requirements are set out in detail above. In summary, it is for the Tribunal to determine the applicant’s date of birth as a matter of fact and the Tribunal’s role is inquisitorial. There is no burden of proof on either party and it is open to the Tribunal to reach

a conclusion that is different from both the claimed age and the assessed age. The Tribunal should conduct a holistic assessment and decide the applicant's age on the balance of probabilities.

26. In coming to the conclusions below, I have taken into account all of the evidence before me and considered it in the round. I have considered the applicant's evidence with care making allowances for the traumatic experiences he is likely to have suffered in travelling from Afghanistan to the UK, in particular when separated from SA in Turkey. I have considered the oral evidence and that set out in the witness statements in the context of the evidence as a whole. I have also made allowances for the fact that a child or young adult may have problems giving a coherent account of their history.

The Applicant's Evidence

The Applicant

27. The applicant's evidence in brief is as follows. After seizing power, the Taliban subjected his family to adverse attention because of his brother N's involvement with the government. Therefore, his mother and uncle arranged for him and SA to leave the country around six months later. In Turkey, the brothers were able to find work in a jeans factory but were separated after being encountered during a police raid. The applicant was taken to a facility housing individuals of around his age. He was worried that he might be deported to Afghanistan if he remained and so escaped after around 1 ½ months via the adjoining playground. He was taken in by a family of shepherds for whom he worked for around 18 months. They did not pay him but did agree eventually that instead they would arrange for him to travel through Europe with relatives. The applicant stayed with those relatives until Paris. He then contacted the shepherd family again who arranged for someone to take him to Dunkirk, and then to cross the channel on a small boat.
28. On arrival, the applicant was asked his age. His mother had said he was 13 when he left Afghanistan and so he worked out that he was 16 years old. He was given the date of birth 1 January 2008. He told his interviewers that he had been issued with a Tazkira but did not know exactly when. He thought it was when he started school as a Tazkira is required to start school, and also that Afghan children start school at around 6 or 7. However, he did not know when he had started school or how long before leaving Afghanistan he had left school. He thought he had completed three school years but had repeated one because of poor attendance.
29. I should record that the appellant said in his age assessment interview that he had been told he was 13/14 when he left Afghanistan, and in oral evidence that he was 12/13. Otherwise, his account of leaving Afghanistan and travelling to the United Kingdom has been consistent throughout. He was also clear that he did not have a mobile phone until given one by the shepherd family. It was SA who had travelled with their mobile phone.

SA

30. Perhaps unusually, in this case there is supporting evidence from a member of the applicant's family, his brother SA. It is not in issue that the applicant and SA are siblings or that SA was accepted as being 15 years old on arrival in the United Kingdom.
31. Save for what he is recorded as having said on first arrival about the applicant's age, SA's evidence of his family is identical to that of the applicant. There are seven siblings. The eldest left Afghanistan before SA and the applicant and is now in Dubai. SA is the fourth eldest and around 2 years older than the applicant.

32. His evidence, in short, was that he and the applicant left Afghanistan around six months after the Taliban took control of the country. Their eldest brother had worked for the government and so the family was receiving threats from the Taliban. Their mother and uncle arranged for them to leave. He was the elder by about 24 months and so he had a mobile phone. The brothers worked in a factory in Turkey for a short while before being apprehended by the police and separated. SA was detained by the police for 2 to 3 nights but released when they realised he was under 18. They refused to release the applicant into his custody and SA was unable to locate him despite looking for around three months. SA then made his way through Europe eventually to France and then the United Kingdom. SA's age was accepted in France, according to him because his mother sent a photograph of his Tazkira to his mobile phone. The United Kingdom authorities did not ultimately challenge SA's age when he arrived here.
33. SA's account of giving the applicant's age to the authorities is as follows. He was interviewed when he first arrived and asked amongst other things about his family members and their ages. He was interviewed about a day later, on 7 May 2023, at the hotel where he had been taken and again asked the names and ages of his family members. He told the interviewer, a social worker by the name of Annah Mukoyi, that the applicant would be aged around 15 years at the time, that the applicant was his younger brother, and that he himself was the fourth child of seven. At a subsequent interview on behalf of the respondent, the interviewer read out the record of an earlier interview in which it had been recorded that the applicant was a year older than SA. SA corrected the interviewer and said the applicant was 18 months to 2 years younger than him, and SA subsequently signed a document on 11 August 2023 in which the applicant's age had been corrected to be younger than him but an incorrect name given. SA was clear that he had never told Ms King that the applicant was older than him. Indeed, his evidence is that he told her about the mistake and his correcting it.
34. Regarding the applicant's Tazkira, SA's evidence was that he had been asked in or around November 2024 by the applicant's solicitors to help find a copy of the document. He had not spoken to N for three years, being aware that he was safe in Dubai. However SA met someone at the north London mosque he attended who knew N and gave SA his number. N sent SA a photograph of the applicant's Tazkira. SA believed that N had that copy (as with his own) because he was the eldest male of the family.

Ms Kayim

35. Ms Kayim works for the Refugee Council as a children's adviser in their age dispute project. She describes in her witness statement the screening process through which age-disputed children are put in order to receive support from her organisation. It was suggested by Lord Murray that she would be predisposed to believe an individual's claimed age. Her response was that the organisation's resources were limited and therefore that it would be improper to take each and every applicant at their word. I accept that Ms Kayim would be less quick to challenge an applicant's age than the respondent, unless they were obviously an adult, but that she would nevertheless be content to refuse assistance to someone she believed to be an adult. Specifically, she would not overlook 'glaring inconsistencies' in their account.
36. As it is, Ms Kayim's opinion on the applicant's age is of less assistance to me than her knowledge of child reception facilities in Turkey and the enquiries she made there on the applicant's behalf. Notably, she confirms that there is a child reception facility for those aged 13 to 18 in a town near Istanbul which closely resembles the applicant's description of the place he was taken and housed after he and SA had been encountered by the authorities. Also of note is the fact that, whilst that facility has not responded to her enquiries about the applicant (neither positively nor negatively, it would appear), it was her evidence that the applicant was content for her to make those enquiries, which tells somewhat in his favour.

Ms Whittle

37. Ms Whittle is a teacher at North Hertfordshire College. She has worked closely with the applicant for two years both as a tutor and is a member of the pastoral support team. She had declined to make a statement when asked in December 2024 because she felt she had not known him long enough to make an informed statement. However, she now feels able to. In short, she has 9 years' experience working with 16-19 year olds and is of the opinion that 'he presents, behaves and interacts entirely in line with a young person of 17-18 years old'. She talks highly of his integration, popularity, participation, enthusiasm and academic qualities. She reports that the applicant makes friends easily.

Tazkira

38. The applicant has provided a photograph of a document said to be his Tazkira. SA's evidence is that he met an individual at the north London Mosque he attends who happened to know their eldest brother, N. That individual managed to put SA in touch with N, who was living in Dubai. SA told N of the problems faced by the applicant and N sent SA a photograph he had on his mobile telephone of the applicant's Tazkira.
39. That document gives 29 February 2008 as the applicant's date. It bears a photograph of the applicant at a much younger age, although no one has speculated on what that age might be. The respondent accepts that the document is of an expected format for a Tazkira. However, she submits that such documents are easily forged or altered.
40. The applicant no longer relies on the evidence of Dr Zadeh authenticating the Tazkira. Consequently, the report of Ellen Radley criticising Dr Zadeh's report and methodology is of limited assistance. Nevertheless, she does relevantly say that it is not possible to authenticate a Tazkira from merely a photograph of the document and, moreover, that such documents are in general difficult to authenticate and easy to fraudulently construct or manipulate.
41. Instead, the applicant relies on the report of Dr Giustozzi detailing enquiries undertaken in Afghanistan to verify the Tazkira. This is an important distinction: whereas the evidence of Dr Zadeh and Ms Radley concerned the genuineness of the document itself, Dr Giustozzi deals (as best he can) with the accuracy of the information contained therein. He agreed in cross-examination that forged or manipulated documents are a serious issue in Afghanistan, which was why verification was a preferable approach. The majority of the documents he had recently been asked to verify had been forged or manipulated.
42. Dr Giustozzi accepts that his evidence is hearsay (see consideration of another of his reports by Pepperall J in R(MS) v Kent County Council [2024] EWHC 2661 (Admin)). However, he described in his report the methodology used to verify the Tazkira: using an agent in Afghanistan, Mr Mangan, who in turn used a contact in the Kabul Civil Registration Authority, Mr Yousufzai, to confirm the accuracy of the information on the Tazkira. In oral evidence he also confirmed the following. The methodology he uses is the same as was used by the British Embassy when verifying documents with previous Afghan government. Dr Giustozzi pays his agent the same for investigating a document whether or not the document is verified. When recruiting this agent, Dr Giustozzi tested him with a mix of genuine and fabricated/altered documents, and the results were all accurate.
43. It was not challenged by the respondent that Dr Giustozzi is a recognised country expert. It was his opinion in cross-examination that, whilst Tazkiras are easy to fabricate or manipulate, ensuring that local records are correspondingly altered requires bribing officials, with attendant risk. Even more officials would need to be bribed, and so greater risk undertaken, if central records were to be falsified. The task was even more risky, complicated and

expensive where the Tazkira in question cross-referenced a birth certificate, as in this case, would then also need to be manipulated if a false birth date were to be asserted.

44. Consequently, it was Dr Giustozzi's hearsay evidence that the details on the applicant's Tazkira, and in particular the photograph and date of birth, were consistent with the information recorded about the applicant in Afghanistan's central records. Therefore, whilst there is some question as to when the applicant was issued with a Tazkira (he does not know exactly when but believes it would have been when he went to school aged 6/7, when he was clear that a Tazkira would have been needed, whereas the document itself states that it was issued on 22 June 2018) the information it contains is, it is said, consistent with central records and the applicant's own claimed age. In any event, the authenticity of the Tazkira is less important than the accuracy of the information itself. I reach conclusions on both issues below.

Respondent's evidence

Amanda King

45. Ms King was the social worker allocated to SA in May 2023. She states at paragraph 6 of her witness statement that she completed his genogram and child and family assessment, the latter being the reason for her first face-to-face meeting with the applicant. She continues at paragraph 9:

'During the gathering of information for the purpose of [SA's] Child and Family Assessment in May 2023, I completed a genogram. I recorded the names and ages of SA's siblings as he provided which, placed [the applicant] as his older brother aged 20. I verified this alongside [SA's] Initial Welfare interview completed by the Home Office when [SA] first arrived in the country.'

46. Whilst Ms King could be understood therefore to be saying that she created the genogram together with and in the presence of SA, she does not explicitly say so. That paragraph must, in any event, be read together with what Ms King continues in paragraph 10 (emphasis added):

'Within [SA's] Child and Family Assessment note there are inconsistencies based on errors made by myself. At the time of writing this, my belief was that [the applicant]- was [SA's] older brother based on the genogram completed with [SA]. I cannot account for why I stipulated younger brother within the same document. It is my belief that I made an error in not reading through the final document, so I was unaware of the inconsistencies at the time. This was more than two years ago and I am unclear. From reading this report **it is my belief that [SA] may have stated that his brother was younger**, which is why this was stated in the report. However, at the time of writing the statement for NAAB I did not recall this information and based my statement solely on the genogram I had completed following SA's arrival. The genogram was the only source of information I reviewed at the time of [the applicant's] arrival in the country.'

47. She goes on to confirm that she was not present at any of SA's Home Office interviews in which SA stated that the applicant was his younger brother, and also blames the inconsistencies on 'my potential error in not returning to the genogram following on what going conversations with [SA] throughout his care prior to [the applicant's] arrival.' Moreover, she accepts that SA had said to her when asked in March 2024 that the genogram was incorrect and that the applicant was younger than him.
48. Consequently, Ms King accepted that her statement for the NAAB was ambiguous in places and in particular it should have read 'when I first completed the genogram for [the applicant's] brother [SA] when he entered care in May 2023, [the applicant] **was placed as** [SA's] older

brother, aged around 20, missing in Turkey, rather than a younger brother', as opposed to '...[the applicant] **was said to be** [SA's] older brother...' (my emphasis).

Suraiya Patel and Related Evidence

49. Ms Patel was one of the social workers who undertook the NAAB age assessment of the applicant, as lead assessor with Hannah Watts as secondary assessor.
50. Her witness statement details the chronology relevant to her assessment, and adduces the various documentation, including notes, minutes and outcome. She details at paragraph 10 the principal reasons for her assessment of the applicant's age. These were in short: an incredible inability to give his age at any point during his journey; the inconsistency between his and SA's genogram; a mature demeanour, and dominant behaviour towards SA; and various credibility issues in the applicant's account. Those credibility issues are said to concern: the applicant's ability to measure the passing of time; a lack of documents to verify his date of birth and inconsistent explanations for how he knew his age when he left; his physical presentation; his behaviour when assessed; his explanation for not fasting; how it was treated in Turkey; and when he began shaving.
51. Included in the bundle of evidence were reports from: Ms King; Paige Frederico, a support worker for Hightown Housing Association (countersigned by Danniele Read, Operations Manager); Joanne Hunt, allocated social worker; and Lisa Gibbons, teacher at Townsend Church of England School.
52. In Ms King's report, she gave her opinion that the applicant was older than his given age of 16 and could possibly be 19-22 years old. I have dealt with Ms King's evidence above.
53. Ms Frederico noted that SA would often avoid the applicant, that the applicant appeared older than SA and that the applicant had strong opinions and strong control over the other accommodated young people. She refers to SA as the applicant's 'older brother', but to the applicant being taller and appearing older than SA. She refers also to SA having given the applicant's details as his older brother when first accommodated (but SA then stating that this was a mistake when the applicant arrived). Her view on the applicant's age was recorded as, 'Our view that [the applicant] is not presenting as a 16 year old, he does appear to be between the age of 20-21 years. This is based on a number of factors and [the applicant's] presentation especially when he was residing with his older brother.'
54. Ms Hunt remarked in her report about SA's genogram: 'Before [the applicant] was known to our SMC team his brother... had completed a genogram with his social worker stating that [the applicant] was his older brother, but when [the applicant] arrived at the home, he said that he had made a mistake and [the applicant] was 16 years old.' She reported being told by managers at the home that they had observed the applicant being the more dominant of the two brothers which made them feel that he behaved like the older sibling. She observed that the applicant's physical presentation appeared more developed than his peers, and that his body language, self-awareness and mannerisms at time seemed to be those of someone a few years older. However, in each regard she acknowledged the possible impact of his experiences in Afghanistan and travelling to the United Kingdom.
55. Her view on the applicant's age was, 'from my observations, home staff and school reporting, my view is that [the applicant] presents as a young man, 3-4 years older than his stated age of 16. We understand that in Afghanistan, cultural norms have a hierarchy within the family, hence why staff observations of [the applicant's] older brother looking up to him, and other young people at the home doing so, is causing us reasonable doubt that [the applicant] is in

fact the younger sibling.’ She did not detail the basis of her understanding of Afghan cultural norms.

56. Ms Gibbons’s view of the applicant’s age was, ‘From observations and working with teenagers [the applicant] appears slightly older than 16. The way he has conducted himself and his confidence seems more mature than his peers and I feel he would be better suited in with our sixth form students [which Ms Gibbons confirmed later was for those aged 17/18]. He is more mature than our 15/16 year olds but has different life experiences. I believe he may be 18/19 rather than 16.’ She makes no reference to SA’s genogram, nor is it suggested that she was ever aware of it.
57. The NAAB referral records that a social worker or key professional involved in the applicant’s care believed that he may be a child, but that the interested party disputed his age. In a document apparently created for a planning meeting on 13 August 2024, the following is recorded in a section headed ‘Referral Information: allocated LA SW to discuss the individual and rationale for the AA’:

‘NA was not disputed at port and was placed in the care of Hertfordshire, NA brother is also in the care of Hertfordshire, it transpired that his brother informed the council that NA was his older brother prior to his arrival. The LA are concerned that NA is an adult and as a result the case was referred to the NAAB.’

58. In his interview on 5 August 2024, the applicant was asked how he knew he was 16. He replied, ‘My mother told me on many occasions. We also had a Tazkira paper document for age, when I left Afghanistan I was 13/14 my mother told me, so I know.’ When asked when he first got a Tazkira, he said he thought it was in first grade of school, when they ask you to have one. He remembered his mother getting one for school purpose but could not remember when he started school or how old he was when he started school. He described the document being A4 sized, it having a picture of him and that he was ‘approximately 6 or 7 maybe’ in the picture because school starts ‘around 6 or 7 years of age’. The applicant did not know what otherwise was on the document. He later said that he could not remember the age when he started school, that he had started in year one and left in the third or fourth year, in order to help on the family’s farm and because of the general security situation. He could not remember how long before leaving Afghanistan he had left school.
59. Amongst the other questions the applicant was asked were his present shoe size and shoe size when he arrived. He said he was currently a size 44 but less clear about the size when he arrived. He initially said 41/42 but when challenged said, ‘I used to wear 42, 43 I was also wearing. But now 44.’ He was asked about shaving and said that he had started 1 to 2 months earlier and now shaved every time he went for a haircut, approximately every three weeks to a month.
60. In the minded-to-meeting, the applicant was asked why he had never fasted before coming to the United Kingdom and replied that it had been too hot. When challenged later that he had left in springtime when the temperature was moderate, the applicant said, ‘10 years ago I wouldn’t know the temperature. I wouldn’t know.’ It is clear, however, that the applicant had become progressively more and more agitated as the reasons for doubting his age had been put to him.

Consideration

61. Whilst I am unpersuaded that I need to give due deference to the assessment of the NAAB, it is appropriate that I recognise the professional expertise of those upon whose evidence the respondent relies. I am entitled to place particular weight on the views of those trained in age

assessment, such as Ms Patel, and weight (albeit less) on social workers trained and experienced in working with children, even if not expressly claiming to be trained in age assessments. Perhaps less weight, but nevertheless some, can be given to the views of teachers who have worked with the applicant.

62. All of the professionals whose evidence is relied upon by the respondent are of the opinion that the applicant is older than claimed. The social workers all put him around 4 years older. However, it is of note that they all clearly had sight or knowledge of the genogram prepared for SA by Ms King. The only one who does not appear to have had any knowledge of the genogram places him 'only slightly older' than his claimed age. The key role played by the genogram is clear from the NAAB referral documentation, and I find that the social workers' opinions were materially influenced by their understanding that SA had said his brother was 2 or so years older than him, and only changed his account when the applicant arrived in the United Kingdom. That, I find, was a mistaken belief.
63. SA denies completing the genogram with Miss King and ever telling her that the applicant was older than him. She now accepts that SA told her that the applicant was younger than him, and her proposed redrafting of her NAAB statement seems to accept that SA was not involved in the creation of the genogram and specifically did not say that the applicant was older or aged 20. By the time she constructed the genogram in June 2023, SA had already told the respondent that the applicant was younger than him. Put simply, SA's genogram did not reflect SA's evidence regarding his brother's age. This significantly undermines the weight I can place on the social workers' views of the applicant's age.
64. As for Ms Gibbons, who considered the applicant to be slightly older than SA, she is a teacher not a social worker, does not appear to have given much if any thought to the appellant's experiences en route, and her evidence is counterbalanced by that of another of the applicant's teachers, Ms Whittle, who believes him to have been a child at the relevant time.
65. I am concerned in any event about the respondent's professionals' extensive reliance on appearance and demeanour, notwithstanding some recognition of the potential effects of the applicant's life experiences. I am further concerned by apparent assumptions on how subservient an Afghan boy ought to be to an older brother.
66. I recognise that the applicant has not been entirely consistent about his age when leaving Afghanistan and how he knew it. In his witness statement he says that he was told by his mother he was 13 when he left Afghanistan, whereas he said in one of his age assessment interviews that she told him he was 13/14, and in oral evidence he said he was told he was 12/13. However, these are not significantly different ages or age brackets.
67. The applicant has also been unclear about when he was issued his Tazkira. However, he has not been explicitly inconsistent on the point.
68. I accept that some of the applicant's responses in his age assessment interview appear to be inconsistent or vague. For instance, it is unclear whether he was saying that his shoe size arrival was 41, 42 or 43. He does appear to suggest that he did not fast because of the temperature, whereas one might have expected an individual of his age to say that that was the reason why he did not fast. He appeared to have been confident in estimating the time spent over various phases of his journey, whilst claiming that he had not been taught by his mother how dates worked in Afghanistan.
69. However, it is difficult to see how any of these matters critically undermine his claimed age. For instance, it does not appear to be challenged that the applicant and SA left Afghanistan together and it is a matter of record that they arrived 10 months apart. In short, there is no real

doubt as to the length of time taken by the applicant on his journey such that it could be suggested that, whilst he may have been around 13 when he set off, he became an adult before arrival. As for the applicant's explanation for not fasting -that the weather was hot – instead of treating it as a tacit admission that he was in fact an adult in Afghanistan, the respondent argues that it cannot be true because the weather was temperate over his final Ramadan there. No one was able to explain adequately to me what conclusions I could properly draw from the applicant's vagueness over his arrival shoe size.

70. In any event, the applicant's account of his reasons for leaving and journey to the United Kingdom has been overwhelmingly consistent at every telling. Moreover, the chronology is consistent with his and SA's respective arrival dates, given their joint account of leaving Afghanistan together. Likewise, he has given the same genogram albeit with estimated ages throughout.
71. Of considerable significance was SA's evidence about the applicant's age. Contrary to the respondent's and her witnesses understanding, he did not state on arrival that the applicant was older than him and only corrected himself when the applicant later arrived.
72. At worst, he said on arrival that the applicant was his older brother, but corrected the record almost immediately and maintained thereafter whenever asked that the applicant was younger. An explanation for that inconsistency might be that SA had, in an unguarded moment, revealed on arrival that the applicant was older and then remembered shortly afterwards the story he was supposed to maintain. However, I do not understand it to have been put to him in exactly that way. In any event, the brothers had by then been separated for some time, and SA would not have known whether the applicant would ever arrive. Instead, I find that SA's prompt correction of the applicant's age reflected his genuine understanding of their age difference.
73. That is not in any event the only corroborative evidence of the applicant's age. He has provided a photograph said to be of his Tazkira. I do not find it implausible for SA to have been put back in touch with their elder brother by a stranger at a large North London mosque. The journey from Afghanistan to United Kingdom is lengthy in distance and undoubtedly in time. It is reasonable to expect those undertaking such a journey to gravitate to those of the same nationality. It is not implausible that N, as the eldest male of the household, had photographs of the other members' Tazkiras. The fact that the Tazkira was issued in 2018, when the applicant claims to be 10, is not fatally inconsistent with his recollection of it being obtained for starting school. Whilst his understanding is that children usually go to school between six and seven, he does not know when he went to school or how long before leaving he stopped attending school.
74. In any event, I am satisfied on balance that the details stored in the Afghan central registry about the applicant are consistent with the details on the Tazkira. I am further satisfied that the reason the details are consistent is because the details are true. I accept Dr Giustozzi's opinion that falsifying central records would be a complicated, expensive and risky undertaking. The respondent suggests that it is implausible that the applicant's family could afford to send so many of its members overseas. Clearly, they were able to (at least for the applicant and SA). However, it is even less plausible, to the point that I reject it as a matter of fact, that the family could afford to bribe national officials (as well as necessarily the officials of any local registry office holding the same information) in order for false details to be held for him, not only in respect of his Tazkira but also the birth certificate to which the Tazkira refers.

Summary of conclusions

75. My task is to reach my own assessment of age informed by all of the evidence. There is no hurdle which the applicant must overcome and I have to decide whether, on a balance of probabilities, the applicant was a child when he arrived in the UK.
76. The key issues taken by the respondent are to be found in the challenged decision and Lord Murray's skeleton argument. They are in brief as follows. SA's genogram is identical in every way to the applicant's save for the latter's age and whether he is older or younger than SA. The applicant has been observed by social workers being the more dominant of the two brothers. All of the professionals who are interacted with the applicant think he's an adult. The applicant's interaction with other young people suggests that he is more mature than the others. The applicant has given contradictory and inconsistent evidence about how he knows his age and incredible evidence of being unable to track the passage of time. The applicant's account of his journey to the United Kingdom is generally incredible. Little reliance can be placed on the Tazkira, only a photograph having been provided and ease with which such documents can be fraudulently constructed or manipulated.
77. The social workers and teachers relied on by the respondent are all of the opinion that the applicant is older than claimed. However, all but one were, I find, influenced by a genogram completed not in accordance with SA's evidence of the applicant's age, and their opinions are consequentially undermined. The remaining witness believes that the applicant is only slightly older than claimed, and her view is counter-balanced by that of the applicant's current teacher, who believes him to have been (until recently) a child.
78. I do not find the credibility issues taken by the respondent to significantly undermine his evidence. The applicant's account of events and his age has been largely consistent, and is plausible and consistent with the corroborative evidence of SA. The appellant also relies on a photograph of his Tazkira. An investigation led by Dr Giustozzi has confirmed that details held in the Afghan central registry for the applicant are consistent with that Tazkira (including in particular the photograph on it and the recorded date of birth). I find the Tazkira to be reliable and the date of birth it records to be accurate in any event.
79. For the reasons given above, I find it more likely than not that the applicant's date of birth is 29 February 2008, so that on arrival in the United Kingdom on 3 March 2024 he was 16 years of age.

Sean O'Brien

Signed:

Upper Tribunal Judge O'Brien

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