



IN THE UPPER TRIBUNAL

R (on the application of AA) v The London Borough of Ealing IJR
[2014] UKUT 00317(IAC)

Field House,
Breams Buildings
London
EC4A 1WR

8, 9, 10 & 13 January 2014

BEFORE

**UPPER TRIBUNAL JUDGE PERKINS
UPPER TRIBUNAL JUDGE DAWSON**

Between

**The Queen on the application of
A A**

Applicant

and

THE LONDON BOROUGH OF EALING

Respondent

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Interested Party

Mr A Suterwalla, Counsel, instructed by Steel & Shamash Solicitors
appeared on behalf of the Applicant.

Mr A Harrap-Griffiths, instructed by the Chief Executive of the
London Borough of Ealing

The Interested Party did not appear and was not represented

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JUDGMENT
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JUDGE PERKINS: This action began by the applicant seeking permission to bring proceedings for judicial review of a decision of the respondent dated 15 February 2013. There the respondent decided that the applicant was born on 2 May 1993 and therefore achieved his majority on 2 May 2011 whereas the applicant says that he was born on 2 May 1995 and therefore achieved his majority on 2 May 2013. The applicant sought a declaration that he is the age that he claimed, that the respondent's determination of his age was wrong and that therefore the respondent's decision to treat him as an adult was unlawful.

2. On 10 April 2013 the interested party served an Acknowledgement of Service indicating that she did not intend to take part in the proceedings and asserted her right to seek to be discharged as an interested party at a later date although, as far as we are aware, no such application has been made. Additionally, the interested party confirmed in the Acknowledgement of Service that the applicant's then solicitors had provided a birth certificate to the UK Border Agency on 11 June 2012 and that the interested party had confirmed in writing to the applicant that she did not accept that he was the age he claimed to be.
3. On 6 August 2013 Cranston J. gave permission to pursue the application for judicial review and transferred the claim to the Upper Tribunal for a substantive hearing.
4. The approach that we are obliged to take to this case is, we find, a matter of settled law and was not disputed by the

parties. We must decide the applicant's age as a matter of fact. The standard of proof is the balance of probabilities but this is not a case where there is a burden of proof. The Tribunal must act in an inquisitorial role but we must bear in mind that a person who claims to be escaping from a country as a refugee may well have good reason not to be able to produce the kind of identity and similar supporting documents that would be available to a person leaving in calmer circumstances. For the avoidance of doubt, it is this applicant's case that he is a refugee but that is not something we have to determine in these proceedings.

5. Although for the reasons explained below we were not impressed with the applicant's evidence we do not want to risk influencing his claim for asylum by drawing attention to his identity. Pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 we order that, unless and until a Tribunal or court directs otherwise, the applicant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. Failure to comply with this direction could lead to contempt of court proceedings.
6. We have been provided with an appropriately prepared bundle as well as some additional documents provided during the hearing. We have considered all the material before us before making any findings on controversial matters.
7. We heard evidence from the applicant and his tutor Ms I B, his community worker Mr M W, his uncle Mr H A, the social workers Victoria Aderinola and Dennis Dean, and a dentist Dr Philip Marsden.
8. The bundle included an Age Assessment Form prepared by the respondent and dated 15 February 2013. It is an overview of the respondent's case but we found it a convenient way to

start our examination of the evidence because it identifies key issues. We consider it below.

Age Assessment Form

9. It begins by identifying the appellant as a citizen of Afghanistan who was then living at a branch of the YMCA.
10. The applicant had a Home Office Young Person's Application Registration Card asserting that his date of birth had been assessed as 1 May 1993.
11. He said that his birthday had been celebrated every year on 2 May when he received gifts for his immediate family and that his mother had informed him of his age and date of birth.
12. He supported the application with a Tazkira, which he described as his birth certificate, and which he said had been sent to him by his friend S in November 2011.
13. The applicant said that he had given the original to the UKBA case owner during his asylum interview in December 2011 but, according to the note, UKBA had informed the respondent that they were not aware of any such documentation. The position was clarified by his solicitors who said that the original had not been handed to the Home Office but a copy sent by facsimile on 11 June 2012. The summary indicated that the photograph on the "birth certificate" "is no resemblance of Al as the person in the picture who is dressed in a suit, has a round face and fully grown moustache" even though the document asserted that the applicant was 13 years old when the picture was taken.
14. A total of seven family members are listed. The applicant's mother died when she was aged 42 years and his father died in the year 2000. It was the applicant's case that he was one of six siblings but all save his younger brother were dead. The siblings were identified as follows:

Family member three, brother H;

Family member four a sister M;

Family member five a brother N;

Family member six a sister N;

Family member seven a brother Aa.

15. Aa was said to be 14 years old. The others were described as "age unknown."
16. One uncle was identified as "Contact in the United Kingdom". He is known as Mr A A and he was described as a paternal uncle who had lived in West Drayton but who had now relocated to Pakistan.
17. The report began by acknowledging an interview on 6 February 2013. Present at that interview were one Andy Carhill described as the responsible adult and two social workers, Victoria Aderinola and Dennis Dean.
18. The report noted that the appellant appeared to be a person "well over the age of 18". This was based on his physique and bearing including his deep and assertive voice and his facial hair growing through rough skin that appeared to have been shaved for some time. Considerable weight was also given to the applicant's apparent confidence and particularly the way he was said to have asserted his rights to certain benefits and his confidence to say sarcastically that a medical age assessment would be frustrated because his molars had been extracted due to decay in Afghanistan.
19. The applicant explained that in summary his father had died in the year 2000. His father had been working as a truck driver. About four months before the applicant arrived in the United Kingdom his mother and brothers (except Aa) and sisters had been killed by the Taliban while he and his brother Aa were safe in a separate room. He explained that Aa resides in Pakistan with an Afghani man who owns a shop and accommodates him in consideration for work done.

20. The applicant claimed that his former school friend, S, arranged for him to enter the United Kingdom and that he sold the family home and possessions to S in exchange for US\$7-8,000 to finance the trip.
21. The applicant had planned for Aa to travel with him to the United Kingdom but they did not raise sufficient funds for Aa to travel too.
22. The report commented on the lack of any emotional distress demonstrated during this part of the account.
23. The applicant had told social services in Hillingdon in 2011 that he had a brother in Pakistan aged 14.
24. Four adverse points are noted at the end of the section of the report labelled "Physical Appearance and Demeanour".
25. Firstly, if the applicant had told Hillingdon Social Services in 2011 that he had a younger brother then aged 14, that brother would be at least 16 years old by February 2013 and if there was another sibling between the applicant and Aa, Aa could not be less than 18 years old.
26. Secondly, it was said that it was incongruous for the applicant to have negotiated the sale of the family possessions for £7-8,000 (it was accepted that this was an error and the sign for dollars should have been used rather than the sign for pounds) if in fact he was only 15 years old and his family had been killed some two or three days before.
27. Thirdly, the applicant's friend, S, was said to be aged 20 years when the applicant sold his family home and so would be aged 22 years when the applicant was interviewed. It was thought incongruous that the appellant would have had a good friend some five years his senior.
28. Fourthly, it was also said that the applicant had not challenged the Home Office's age decision and did not show Hillingdon his birth certificate in 2011.

29. Clearly there are criticisms that can be made of these observations but we record them here because we are outlining the report.
30. When giving his social history and details of his family composition, the applicant said that he was born in Balkh Village in Afghanistan and had a happy family life with his parents and five siblings. He claimed not to know the ages of the siblings except for Aa who was aged 14 and was the only surviving member of the family. He claimed to have done well at school and to have been "promoted" on two occasions and so advanced by two year groups.
31. He claimed that he had studied for only eight years in Afghanistan rather than the normal ten because of his accelerated progress through the school system.
32. He claimed to have started school between the age of 5 and 7 years. He claimed that he had obtained his "birth certificate" in 2009 to enable him to attend a computer class in an "Academic School". He attended with his friend S but he could not remember the name of the school. His main school was in Maqsadallah Ershmid in the City of Mazar some 40 minutes by car away from his home.
33. It was noted that the applicant was dressed appropriately in clean clothes and wanted to cook his own food which he claimed to be able to do. He said that he could cook, clean and take care of himself and travel independently. He claimed to be able to manage his money.
34. The report also noted under the heading "Information From Documents and Other Sources" that the applicant's age was in doubt and that the social workers present during the (allegedly) Merton compliant age assessment were of the opinion that the applicant was over 18 years. There was a note that a staff member at the Ealing Churches Winter Night Centre said that he "presents physically to be over the age of

25" but expressed herself to be "unsure" if he was a minor. The key social worker at the YMCA found it "a bit tricky" to decide his age and he was taken for dental examination.

35. The report gives twelve reasons for the conclusion that the applicant is over 18 years of age. These are numbered 1 through to 11 but Mr Suterwalla contended, we find correctly, that the first point was in fact an amalgam of two separate points and suggested that it should be numbered as "0" in order to preserve the other numbers. We summarise them below:

0. The applicant had shown no sign of missing his family and his conduct had been evasive, confident and sarcastic.
1. If he was as young as he claimed it was unlikely that his uncle, A A, would have abandoned him to fend for himself.
2. He had not challenged the Home Office decision that he was older than claimed and did not show Hillingdon Social Services his birth certificate in 2011.
3. He did tell Hillingdon Social Services in 2011 that he had a younger brother who would have been at least 16 years old in 2013. He had also said that he had a sister younger than him and older than Aa and if those things were right the applicant was not 18 years old.
4. It was unbelievable that he would have had the maturity and sophistication to have sold the family possessions and left Afghanistan two or three days after the death of his family if he was only 15 years old.
5. He claimed that he had a close school friend named S who had assisted him but that S was 20 at the material time and now 22 years old. It was inherently improbable that he would be so much younger than his school friend.
6. He claimed wrongly that he had given UKBA his birth certificate in December 2011 when in fact it was sent by fax on 10 June 2012.

7. The photograph on the "birth certificate" did not resemble the applicant. He was supposed to have been 13 years of age at the material time but he had a round face and a fully grown moustache and was dressed in a suit.
8. The translation of the birth certificate showed that he was born in 1996 when he claimed to have been born in 1995.
9. His demeanour, stance, bearing, personal confidence with authorities was not consistent with his claimed age.
10. He had the confidence to express his feelings and claimed sarcastically that there was no need for a medical assessment because his molars had been extracted. This was thought to be too sophisticated for his claimed age.
11. Dental evidence said that he was almost certainly over 18 years of age.
36. The applicant was invited to comment, particularly on and the points put to him and his answers were recorded.
37. He could not remember when the picture was taken but he insisted that the photograph was a photograph of him. He denied that the birth certificate had been sent by fax in June and insisted it had been produced at the interview in December 2011. He denied not challenging the Home Office age decision. He denied that if he had told Hillingdon Social Services in 2011 that his younger brother, Aa, was aged 14 and that there was a sibling between him and Aa he could not be aged less than 18 years of age. However, exactly which part of the allegation he denied is not shown. He made no comment on the suggestion that he did not have the maturity to arrange his departure. He denied that S being 22 years old proved that the applicant was well over the age of 18. He denied not disputing the Home Office age assessment and not handing over the birth certificate during the interview in December 2011. He denied the birth certificate showing that he was born in 1996

presented any difficulty. He denied appearing older than his claimed age.

38. The interview was supported by manuscript notes which we have examined when necessary to consider submissions.
39. There was also a document comprising a manuscript note apparently made of the assessment on 4 February 2013. It is particularly important because having recorded the applicant's claims that he was born in Balkh and that his mother died and his brothers and sisters were killed and that his father died in the year 2000, he is recorded as having three brothers and two sisters. He is shown to be the fourth child to be born.
40. Given the slightly unusual nature of age assessment proceedings, although the applicant gave evidence first, we have found it more helpful to set out the respondent's evidence in this part of the determination. As indicated above, this is not a case where either party bears a burden of proof.

Victoria Aderinola

41. Victoria Aderinola made a statement dated 7 January 2013 (she must mean 2014) although it is the same as her unsigned draft statement provided much earlier.
42. She identified herself as a social worker employed by the respondent in its Children Housing Support Team and Unoccupied Minors Team. She graduated from Brunel University in 2007 with a BA Honours degree in Social Work and since then has been practising social work with teenagers in "a variety of settings, mostly with unaccompanied minors".
43. Her statement dealt with criticisms with the administration of the age assessment which we have noted. In answer to additional questions she identified her handwritten notes, the age assessment report and also notes kept by the appropriate adult, Mr Andy Carhill.

44. She was cross-examined.
45. She said she had done a number of age assessments during the course of her work and this one was not procedurally significantly different from any other as far as she was aware. She had worked with her colleague, Dennis Dean.
46. She was directed to the notes of the first assessment dated 4 February 2013. She said that she was not then conducting an age assessment. It was an observation to help her decide if an age assessment was needed. She had asked some questions to try to learn more about the applicant, to "get to know him". She accepted that she had read back things to the applicant but was not quite sure what she had read back.
47. She was asked to consider each of the twelve points she had identified as reasons for doubting his claimed age.
48. Mr Suterwalla suggested that there was no obvious mechanism by which the applicant could challenge the Home Office's assessment of his age or any particular reason why he should want to challenge such a decision. The Home Office had made no decision on his asylum claim and his concern was that he was getting the support that he was entitled to get from the respondent. Ms Aderinola was reluctant to admit an error but it was plain she understood that it was not really a good point to complain that he had not challenged the Home Office decision.
49. It was also suggested that the applicant was in no position to show documents to Hillingdon soon after his arrival because he had travelled without identity documents and it was not fair to criticise him for not producing things that were not then in his possession.
50. She had said that it was the appellant's solicitors who had suggested his uncle had abandoned him in a letter at F3 in the bundle dated 16 January 2013. She had thought that letting

him live for a time on the streets was something described appropriately as being abandoned.

51. She was shown a letter from the appellant's uncle sent by email on 24 December 2012 from the uncle explaining why he was not able to continue to accommodate the applicant. There was neither room for him nor finances to support him. She did accept that there was nothing in the interview with the applicant to suggest that his uncle had abandoned him. It followed that this was a point taken against the applicant without it being put to him.
52. She was asked about the notes of 4 February and particularly the ages and order of siblings that are recorded there. She accepted that she had not checked the note with the applicant but believed that her recollection was correct when she made her notes.
53. She was asked about her view that the applicant was not old enough at his claimed age to have arranged his departure and sale of the family possessions so quickly. She accepted that the reference to £7-8,000 was an error and that the description "dollars" was used correctly earlier in the report. She had not asked the applicant if he had actually taken possession of the cash but her impression was not that his friend S had paid for his departure to the United Kingdom in consideration of being given assets in Afghanistan but that the applicant had taken the money and made his own arrangements. She accepted that there was nothing in the notes that directly supported this impression. She maintained it was still a mature decision to make in a short space of time. She accepted that the applicant had limited options if he was telling the truth about his circumstances but she still felt that the sale of the family assets was a lot for a 15 year old to take on and she did not believe he was that young.

54. Unsurprisingly, she accepted that it was possible that the applicant's friend S was a few years older than the applicant and she had formed the impression that S was the applicant's class mate she had not actually asked the applicant if that was so.
55. Under cross-examination, the witness repeated her claim that the photograph on the Tazkira was not the applicant. It was put to the witness that the point raised under number 8 that the Tazkira did not support his case was based on a mistranslation. It is accepted now that this was a mistranslation and that the translator had identified the wrong year but, concerningly, Ms Aderinola found it difficult to accept that this undervalued the point.
56. Points 9 and 10 were taken together. They are about the applicant's general demeanour, assertiveness and confidence. She had to accept that other people had gained a different impression.
57. She was not able to refer to any note that supported any suggestion that the applicant was sufficiently well versed in procedures to ask for an age assessment.
58. Ms Aderinola was then asked to consider e-mail correspondence with Oluseun Babajide who had worked with him during his stay in a hostel. Mr Babajide estimated his age at "17/18" years and based this on his friendships with other young people and his general behaviour and his having a girlfriend aged about 18. She had not made further enquiries of the applicant's key worker at the YMCA. She was then referred to notes dated 3 May 2013 concerning the conversation with the applicant's uncle. This records his being born in 1995 and having only one living brother then aged 15 years.
59. In re-examination she said she had a clear memory of the applicant's sarcasm when he said he wanted a medical assessment. She confirmed that the reference to the

applicant's sarcastic manner was raised in the request for the applicant's comments because it was something that was in her mind.

60. She did not think that Mr Oluseun Babajide would have direct contact with the applicant more than about once a month.

Dennis Dean

61. Mr Dennis Dean gave evidence. He adopted the statement signed on 23 December 2013.
62. He explained that he is a social worker in the employment of the respondent in the Children's Housing Support Team and Unaccompanied Minors Team.
63. He was awarded a Diploma in Social Work at North London University in 2001 but his experience in social work of various kinds extended for twenty years. He had been involved with unaccompanied minors for seven years and believed he had been suitably trained and supported for that work.
64. Responding to points specifically taken in the pleadings, he said it was his belief that the Afghan college certificate was not produced during the age assessment but was mentioned in a letter from the applicant's solicitors dated 16 January 2013. He echoed Ms Aderinola's evidence dealing with procedural points and, contrary to the impression created by his statement, he was not present at a meeting between the applicant and Ms Aderinola on 22 January 2013.
65. Mr Dean was cross-examined.
66. He was asked to explain his understanding of the safeguards appropriate for an age assessment case. He suggested that the report should be prepared by two appropriately qualified social workers working together and detailed notes taken of interviews. He said that he was not present at the initial child and family assessment because although part of the whole picture it was not part of the age assessment interview.

67. He was then taken to the summary of the reasons containing the twelve points that were put to Ms Aderinola. Unlike Ms Aderinola he was willing to engage in the hypothetical exercise required by Counsel's questions and also accepted readily that, for example, factoring in wrong information about a date on a document because of a mistranslation meant a point had been relied upon that could not be sustained.
68. He accepted criticisms of the decision and believed that it was still right to assert the applicant is over his claimed age.

Documents

69. The documents include a Statement of Evidence Form marked as being appropriate for use in the case of children prepared by the UK Border Agency in connection with an interview of the applicant on 14 December 2011. At standard question 5 the applicant was asked if he has "any documents or other evidence that you wish to submit today?" He replied, "My birth certificate and Afghan national ID card". This is equivocal. It could mean two different documents or it could be a description of the Tazkira. It is reasonably clear from the following questions, particularly question 7, that one document was produced. It was said to have been forwarded by the applicant's friend, S. The document was issued "three years ago" when the applicant was aged 13.
70. There is a note from Alison Wood, the Project Coordinator at Ealing Churches Winter Night Shelter dated 3 January 2013. This expresses concern about admitting the applicant because he identified himself as a minor but other than noting the consistency of his claim to have been born on 2 May 1995 this is not particularly illuminating. It is not evidence of the applicant's age, only of what he claimed his age to be.
71. There is an email addressed to Victoria Aderinola dated 20 September 2013 from Alison Wood. This makes it plain that

although it was noted that the applicant said he was a minor he looked like a young adult and "I might have guessed about 25".

72. In Alison Wood's email of 20 September 2013 there is a reference to "Ad's younger brother, Aa aged 10" having escaped to Pakistan.
73. The "person case notes" concerning the applicant in the form of an email to Victoria Aderinola received from Hillingdon Social Services on 22 January 2013 refers to the claimant saying that he had a 14 year old brother, Aa Ahmadi, still living in Pakistan.

Dr Philip Marsden

74. The age assessment was assisted by reports from Philip Hayley Marsden who holds the qualifications of Bachelor of Dental Surgery awarded by the University of London, Licentiate in Dental Surgery from the Royal College of Surgeons of England, a Postgraduate Diploma in Forensic Odontology and a Master of Science with Distinction from the University of Hertfordshire. He also has a Diploma in Forensic Medical Sciences and Diploma in Forensic Human Identification from the Society of Apothecaries. In deference to modern custom we will refer to the witness as "Dr Marsden".
75. He examined the applicant on 20 February 2013. An Afghanistan Dari interpreter was present.
76. There was one tooth with an amalgam filling but examination also showed that the rear teeth in the upper jaw on both sides of the mouth had been removed as had the lower right teeth numbered 4, 5, 6, 7 and 8 and the lower left teeth numbered 6, 7 and 8.
77. As well as the missing and filled teeth, Dr Marsden noted that the upper left outstanding molar tooth is slightly over-erupted. He explained this means the tooth had grown down

into the space made by the absence of a tooth beneath it. He said that there is extensive resorption of the bone of the lower jaw and complete remodelling of the area where the teeth used to be with no sign of the outline of the roots of the extracted teeth. He said that clinically the ridges where the teeth used to be were narrow showing extensive remodelling. There was also extensive wear on the edges of the front teeth where they had been rubbed together over time. He opined that this is likely to have been increased because there were no opposing teeth for many years.

78. Dr Marsden drew on his clinical experience of over 30 years and said that the applicant "is almost certainly over 18 years of age".
79. He based this on a variety of factors which can be summarised as the wear in the mouth. Dr Marsden said that he had asked the applicant if he had seen a dentist in the United Kingdom and been told that he had not. He asked specifically if x-rays had been taken because he did not want to take a second x-ray unnecessarily. Dr Marsden's notes showed that the applicant had denied seeing a dentist in the United Kingdom when first asked but changed his account and said he had seen a dentist but no x-rays had been taken. However he had seen x-ray images that were plainly of the applicant's mouth. There was nothing in the further information that caused him to change his mind about age.
80. Dr Marsden expressed his surprise at the additional medical evidence not including the date of birth. He did not know how that came about but it was a surprising omission because his date of birth helps ensure that medical records are not misplaced or confused.
81. Dr Marsden gave evidence before us.
82. He had explained in his second statement (19 December 2013) that he was uncertain which molars were actually missing. As

there was no evidence that would resolve the matter, he decided it would be fairer to the applicant to assume that the third molars were missing as this assumption would favour the applicant's case.

83. He explained in his oral evidence why he thought that this applicant was aged over 18 years.
84. He began by commenting on the wear on the remaining teeth. He explained, uncontroversially, that the rate of wear varies between individuals and is dependent on several factors, particularly the hardness of the teeth and the pressure of the natural bite. Where all the teeth are present the pressure is distributed evenly but if there are no back teeth wear is increased on the front teeth.
85. He did not feel able to say very much about the applicant's age because of the wear of the front teeth alone but that wear was consistent with deductions he had made concerning the rest of the state of the mouth.
86. He did say that the degree of wear at the front of the mouth is the kind that would be found in a 50 year old person if the back teeth had been present to spread wear but that was not what had happened here.
87. He then explained how the jaw responds to the removal of a tooth. Firstly bleeding stops and skin grows over the area of the wound to prevent further infection. This is a relatively quick process. Secondly, the hole created by the extraction fills with bone tissue in a way analogous to a broken limb mending. This takes longer. However, the third response, which is described as resorption, occurs as the jaw remodels to adapt to the absence of the tooth. When no tooth has to be supported and accommodated, the top of the jaw at the back of the mouth becomes thinner and its shape changes. This is a process that takes years rather than weeks. He said that in the applicant there had been "considerable remodelling".

88. He said that he had been involved in forensic dentistry for over 25 years and for twenty of those years he had been particularly interested in ageing.
89. He also explained that adult teeth erupt at different times in different people but the emergence of the tooth tends to be within a two year bracket and that typically the second molar emerges when a person is aged about 12 years and will be established by the time the person is about 14 years. He said that the absence of rear teeth was more significant and helpful in establishing age than was the absence of front teeth. Front teeth can be lost by mechanical damage but rear teeth that are missing have generally been removed because they have decayed. Additionally, teeth do not decay until they have erupted. He explained that the decay typically occurs in the fissure between the peaks in the top of the tooth. Teeth do not decay within the gum and peaks do not decay at all. It followed that for a tooth to be removed because of decay it would firstly have to have erupted sufficiently far for the decay to begin and then for the decay to have taken place so that the tooth became so rotten that it was removed. Eruption followed by decay to such a degree would be in the time bracket of three to four years, and a minimum of three years, given the time taken for that and the likely time for resorption to reach the observed level he thought that he was looking at the mouth of a person aged 25 years although he was very quick to emphasize that it was not his evidence that the applicant was aged 25 years. The applicant could be older or younger. Dr Marsden clearly found the applicant to be aged over 18 years.
90. He was cross-examined. He accepted that his report was not supported by any scientific data. He was not aware of any studies of Afghani males to see if they differed from other population groups. Although he had conducted more than 100

age assessments, he did not know how his evidence had been received by the courts. His experience with courts was mainly in the criminal courts.

91. He said that his he had published peer reviewed papers in the British Dental Journal but we did not understand him to say that his explanation of the relevance of resorption had been the subject of peer review. Although there was "a wealth" of studies done on tooth development his opinion in this case was not based on development. He emphasised that he was basing his assessment not on the degree of development but on the degree of resorption.
92. He opined that it would be difficult to conduct a study to assemble data to test his thesis. In particular, it would not be ethical to leave people with painful decaying teeth to see how long they lasted. He said that age assessment based on resorption was a standard question on a form produced by Interpol to be used when examining bodies.
93. He explained again that he concentrated on the assumed eruption of the third molar because that was the assumption most favourable to the applicant.
94. It was put to him that teeth could have been expected to have erupted between the ages of 11 and 13 years. He suggested that was an unnecessarily tight bracket and 10½ to 14 years would be better. He accepted that it was possible that the tooth in the applicant had developed earlier and rotted quicker and that wear was quicker than he suggested. He could see no clinical justification for removing a tooth that was healthy and so he considered it likely that the tooth had erupted and decayed before it was removed.
95. He accepted that the rate of decay can be affected by diet and mouth hygiene. This was something very hard to test because patients were not always reliable witnesses about the care they gave to their teeth.

96. He accepted it was possible to construct a scenario which would have produced the results seen in the mouth of a younger person than he thought the applicant to be. He was not dealing with certainty but probabilities and the most probable explanation for the state of the applicant's mouth is that he was older than he claims to be.

The Applicant, A A

97. The applicant gave evidence before us, adopting a statement made on 17 December 2013.

98. He said that he grew up in a small village in Balkh province in the north of Afghanistan. He lived in the family home with his mother, a brother H, a sister M, a brother N, a sister N, and a brother Aa. He claimed not to be able to remember living with his father whom he thought was killed by the Taliban in 2000.

99. He said he was unsure about the ages of his siblings but he listed them as indicated above starting with the oldest. He said that it was not the custom in Afghanistan to celebrate birthdays or dwell on people's ages. He believed his mother married when she was 14 years old and she started to have children when she was 15.

100. He said his early years in Afghanistan had been happy. His mother was the main carer. They kept chickens and so had eggs to eat. He stayed at home until he was aged about 6 when he started school in Mazar-i-Sharif being the nearest city to his village.

101. His father worked as a driver and was killed by the Taliban when he was aged 5 or 6 years. After the father's death, the applicant's older brother, Habib, worked as a driver and interpreter for the German and American armies. He recalled travelling to school and having his grandfather sometimes take him to school. He was successful at school and "jumped two

years ahead" of his age group. He was ambitious and wanted to go to university to become an engineer.

102. He said how in June or July of 2011 the Taliban came to the home, killed his mother and all of his family except Aa and himself. Their brother Habib had been working with foreign armies and did not heed the threat to stop. The applicant and Aa were in the neighbouring room when the family were attacked and were able to hide.
103. He said that after the shooting a neighbour told him it was not safe for him to remain in the village and he went to a house in Mazar-i-Sharif with his brother as this was a safe place. A school friend called S accommodated them and S's father spoke to friends and arranged their escape to Pakistan. The applicant said he left the key to the family home with S's father and told him to take whatever he needed to pay for the escape. This was done and he fled.
104. They went to Pakistan and then later an agent came and took the applicant to the United Kingdom. He was told that S's father had only paid for one.
105. He travelled for about four months.
106. He described his journey to the United Kingdom. There were seven of them travelling in a refrigerated van carrying meat and he was afraid he would die of cold. He entered the United Kingdom at the seventh attempt. He had memorised the telephone number of his uncle and stopped pedestrians until someone was inclined to let him make a telephone call and his uncle came to collect him.
107. He said his Tazkira was obtained in Afghanistan. It is the official document that identifies him. The photograph he used had been adjusted to show him wearing a suit and tie although he had never had such a thing. It was the custom for people to present themselves in a smart way on an official form.

108. He recalled two interviews with the Home Office. One was a few days on arrival on 10 November 2011 and that was when his birthday was recorded as 2 May 1993. He said that was an error. He told them it was 1995. He said he challenged the assessment and told them he did not agree with it and was told that would not be a problem but he should get his birth certificate so they could change the age assessment.
109. The full interview was on 14 December 2011 when he presented his Tazkira and an identity card. He had asked S to get hold of the documents on his behalf. He said the suggestion that his immigration solicitor had suggested obtaining the Tazkira later was wrong. The solicitor was confused between the date of the Tazkira being obtained and the college certificate sent to the Home Office. He said that when he was interviewed by the social workers he was nervous. He was questioned and the questions were not empathetic. He thought he was regarded as a liar or at least someone being deliberately misleading and he became stressed. He had signed a copy of the notes of the interview but he had not read the notes. He could not understand what was written. He never agreed that he was the age alleged by the respondent. He particularly denied being sarcastic or referring to a molar being missing. He did not understand the word "molar" and he did not understand the word "sarcastic".
110. He was so upset after being interviewed that he hurt himself by cutting his hand and punching the wall. He had been referred to mental health assessments. He was now on medication. He struggled to sleep and had "horrible flashbacks".
111. The applicant gave evidence before us and adopted his statement. He said that although birthdays were not celebrated in Afghanistan, his mother would tell him when it was his birthday and sometimes buy a small present such as a

book or a pen. He did not know the ages of his brothers and sisters. He thought that Aa was now 16 years old. When asked to indicate family relationships, he said that Aa was his younger brother, that the applicant was the next youngest, and after that came N who was the younger of their sisters. He said that he had said his mother was 42 years old. He thought she was 42 because she was like a teacher who taught him daily college whose age he asked.

112. He claimed to have had lots of friends and S was one of them.
113. He recalled arriving in the United Kingdom and contacting the London Borough of Hillingdon. His English was then not very good but his uncle helped him. He remembered the contact with Ealing and the first meeting with Victoria Aderinola. He knew that she took notes of the meeting but they were not checked over with him.
114. He had never said that N was younger than him.
115. He remembered an interview on 6 February with Dennis Dean and Victoria Aderinola. He did not recall being asked then about the ages of his sister and his position in the family. He did not say that he wanted a dental or a medical assessment. That was something they suggested.
116. He had had about four teeth removed in Afghanistan. He did not know exactly how many. They were taken out because they were decayed. He was clear in his mind that his teeth had decayed. He said they were "black" and he had no money to do anything about it so they were removed.
117. He remembered meeting Dr Marsden although did not remember his name. He had seen another dentist in the United Kingdom. He was not asked about his diet in Afghanistan when he first had problems with his teeth.
118. He was cross-examined.

119. He was asked about his interview on 4 February 2013. He confirmed that he could not read English precisely but he could sometimes get the gist and on this occasion there was an interpreter present. He had some difficulty with the interpreter because he speaks Dari and the interpreter spoke Farsi but he did not mention this difficulty at the interview. He confirmed that the notes did record correctly several things he remembered from the conversation. These included his saying that his mother was aged 42 and that she died because of the Taliban four months before he came to the United Kingdom and his father had been dead since 2000 but he insisted that she had recorded wrongly what he had said about the age of his family members. The suggestion that his mother was aged 14 when she married and 15 when she had her first child was just a guess. It was pointed out that if his mother was 42 when she died and 15 when she had her first child, her first child would now be aged about 27 years. He claimed not to know.
120. He claimed it was not unusual for his sister to be unmarried at her late age. He said that the family was in reduced circumstances and that was a partial explanation for his sister being single.
121. He did not know what age he went to school. He only knew it was usual to start at school between 5 and 7 years of age. He was not prepared to accept that it would be ordinarily the case to leave school aged about 14 years but he left school when he was 16 years old.
122. He described S as a very close friend. He had no relatives on his mother's side and only Uncle Habib lived near him on his father's side. Although he remembered being given some token present on his birthday he could not remember his age at any particular birthday. He was asked about having his teeth removed in Afghanistan. He remembered going to a dentist in a

village that was not his home village. He could not recall if he had been on one or two occasions or in what year his teeth were removed. He thought it was about four or five years before coming to the United Kingdom. They were taken out because they were black and painful. He could not remember how long his teeth had been hurting before they were removed.

123. The Afghan diet was typically rice with some meat and bread, fruit and vegetables but he did eat sweet cakes and loved chocolate.
124. He was asked about his Tazkira. He said it was his photograph on the Tazkira taken when he was in Afghanistan. He had had other photographs taken. This one was taken by a professional photographer. He applied for it because he wanted to go to computer college and needed an identification document. He went to the computer college in 2008. He did not know the month when he started or even the season when he started. When pressed he decided it was not too cold and not too hot.
125. He was asked for how long he was at college and he replied "A year or two maybe". As well as maths on the computer he had to study English for three or four months and also study the Koran. He did not complete the maths course but said he could not recall how much of it he had completed. He had to study the Koran before he could go on the computer course. It was suggested the certificate appeared to indicate that he had been on a course for ten months from August to June but he said he had been on the course for three months and he was asked if he could explain. He said that the dates were approximate.
126. He remembered having a student card with his photograph on it but could not remember his student number. The date of birth was not on it. He said that S was contacted by his uncle who he had asked to get the certificate. The uncle had gone to Pakistan, Afghanistan or possibly Dubai in 2012. His uncle

set up the call. He did not speak directly to S. He did not ask for particular documents but for all relevant documents. He did not have a conversation where he told S, for example, to look in the bedroom.

127. He could remember the name of one other person on the course. He could not remember the name of the instructor or tutor.
128. He did recall the name of one tutor who was an engineer.
129. He said the \$7-8,000 needed to pay for the trip to the United Kingdom came from S's father. He said that he was like a son to S's father.
130. He explained how he travelled to the United Kingdom and how he was helped at different stages by agents.
131. He was asked why he had not indicated in interview that the document was needed for the college rather than just to establish identity. He denied being asked for an appropriate question.
132. He denied that he had been sent a fake document by S.
133. He said when he was in a container he could not make contact on his way to the United Kingdom.
134. He denied saying he did not know where his uncle was born. He said that was a mistake.
135. He admitted that when he claimed asylum he said that he was older than was truly the case.
136. He remembered speaking with Dr Marsden the dentist. He admitted saying wrongly that he had not seen another dentist and had not had an x-ray. He thought that the question was about the dentist that he was seeing.
137. He admitted saying he wanted his own flat and that it was noisy in the YMCA. He was asked why he thought he was entitled to his own flat which is what he had admitted asserting (page 39 notes).

138. He denied discussing what would happen on arrival as he travelled to the United Kingdom. He claimed not to know people could make findings about age by looking at teeth.
139. He said his girlfriend was not from Somalia and she was aged 19.
140. His best friend, S was now 21. He denied that he was older than he claimed to be.
141. He was re-examined.
142. He insisted he had a penchant for sugary food.
143. He offered no sensible explanation for saying that he had not been x-rayed when he had been x-rayed.
144. He insisted he had not heard of dental age assessments before coming to the United Kingdom.
145. The applicant was recalled. He was shown a document being a slip from a neighbour relating to a packet sent from Afghanistan. He said that it was dated 30 June 2013 but he could not recall when he had received the envelope. He had had a T-shirt as well as a document from Afghanistan.
146. He confirmed that at his screening interview his date of birth was written down as 1 May 1994 and then crossed out to show 1995. He said that he had simply been misheard.
147. He was not further re-examined.

M W

148. Mr M W gave evidence before us for the applicant. He signed his statement before us.
149. He introduced himself in the statement as the claimant's community worker. He was employed by St Mary's Church Acton to serve people such as the appellant.
150. He helped the appellant engage with social worker organisations, his solicitors and the respondent.

151. He explained that Ealing Churches Winter Night Shelter was not able to help everyone who wanted its help.
152. Typically it provided an evening meal, a bed for the night and breakfast, usually in a church hall.
153. Mr W took the applicant to visit the Refugee Council seeking help and took him to his solicitors. He said,
"I have now spent a considerable period of time with the claimant and because I have been involved in his case I agree to act as his litigation friend."
154. He then listed occasions when he had escorted the applicant on various visits.
155. He commented particularly on the age assessment report.
156. He had never experienced the appellant being in any way sarcastic but regarded him as a "very polite and respectful boy".
157. The suggestion that he showed no emotional distress or signs about missing his family surprised Mr W who had observed directly opposite behaviour although he noted that the applicant did not become open with him until he gained his confidence.
158. The applicant had given a consistent account to Mr W about his family and paperwork.
159. He was surprised the age assessment recorded nothing of his involvement with the applicant. He knew that the ECWMS member, Alison Wood, had little involvement with the applicant.
160. Mr W said he had had considerable experience of teenage boys. He had two sons of his own but more significantly in this context he had been a football and cricket coach for many years in the United Kingdom and in Australia and had experience of the Lebanese and Turkish communities.

161. There was nothing about the applicant's appearance or conduct that made him believe he was older than the 17 years that he claimed to be.
162. He gave examples of the appellant behaving in a way that he regarded as typical of a 17 year old youth. He commented on his shyness, hesitancy about making eye contact and disinclination to express himself orally, and also how he "showed an interest bordering on wonderment in things like tall buildings and trains".
163. He said that the applicant had an idealistic and immature view of life.
164. He found it significant how on one occasion the applicant spent all of his clothing allowance on fashionable shoes rather than warm clothes. He regarded this as the behaviour of a teenage boy rather than a man.
165. In answer to oral questions he expressed his respect for Alison Wood but confirmed his disagreement with her assessment of his age. Indeed he recalled a conversation with Ms Wood where they expressed concern that the appellant was an underage boy sleeping in a night shelter for men.
166. He was cross-examined.
167. He said he had worked at different times in the financial sector and as a litigation lawyer but he now worked as a volunteer for the winter project. He said that he went shopping with the applicant on occasions.
168. He confirmed that he had never known the applicant to be sarcastic but that he accepted that it is possible that the applicant reacted badly if he was challenged.
169. Although he repeated his evidence about his experience of working with teenage boys, he said that he had no direct experience of young adults. He then qualified that to explain that he had some experience of young men aged 19 to 21 and he

found they generally had an assertive quality that was not something he saw in the applicant.

I B

170. Ms I B gave evidence before us, adopting a statement made in December 2013. She explained that she is a tutor at the college where the applicant studied and had been since 2005 where her main work was teaching English as a second language. She had dealings with the applicant since 2 September 2013 and would see him for about nine hours in the working week. She had had several "one to one" tutorials with him because he needed a lot of support.
171. She said she had over nine years' experience of teaching young people in the 14 to 19 year old age bracket and it was her strong view that the applicant is genuine and honest and had "no reason to set him apart from his peers in terms of age which ranges from 17 to 19 years". In some ways he appeared rather less mature than his contemporaries. He could appear awkward and gauche in class.
172. She adopted her witness statement.
173. She said her tutor group was of mixed ethnicity. She said that people such as the applicant tended to treat her as a maternal figure and wanted her attention in a way that people in their 20s did not. She was particularly concerned when the applicant went with a group to see a play at the Royal Court Theatre which concerned a person seeking the help of an agent to leave his own country. The applicant was disturbed by the scene and she found his conduct childlike at that time.
174. She also recalled an occasion when her work as a tutor touched on the topic of sexual reproduction and she had to draw swimming sperm. The applicant, with the rest of the class, giggled in a way she found immature. She suggested that spontaneous giggling out of embarrassment could not be easily

feigned. She was not competent to decide if he had mental health problems but she was worried after his distress at the theatre.

H A

175. Mr H A gave evidence before us. He adopted a statement that he signed on 17 December 2013 and endorsed to say it had been read in a language he understood.

176. There he identified himself as the applicant's uncle. He claimed asylum and was later granted indefinite leave to remain. He lived with his wife and four daughters but was presently unemployed following a fracture to his hip.

177. He said that the applicant as the son of his older brother. He said that his brother had lived with his wife and family in Balkh city in the north of Afghanistan at an address one or two miles from his own home. He used to see the family often, usually each day.

178. He particularly remembered the day of the applicant's birth because he took the applicant's mother to hospital when she went into labour and he remembered the applicant being born between 10 and 11 o'clock in the morning.

179. He said that the applicant was given a birth certificate at the hospital but this was not like a birth certificate in the United Kingdom for the purposes of registration but was more like a prescription because it listed the medicines that had to be obtained for the mother. He remembered signing the certificate. He remembered it being a date that translated as 2 May 1995. He remembered going to the pharmacist to collect medicines.

180. He said it is the tradition in Afghanistan to have a party after babies are born and that different families celebrate it at different times. In his family it was the custom to have a party six days after the birth.

181. He said it was not common for children in Afghanistan to celebrate their birthdays.
182. In 2000 the applicant's father was killed. Mr Ahmadi was shot by the Taliban whilst serving in the Afghan army in 2001 and escaped to Pakistan.
183. He remembered the applicant arriving in the United Kingdom in March 2007 and going to live with his (the witnesses) younger brother, the applicant's uncle, named A A until October 2012 when A A had to leave the country and the applicant stayed with a friend. By then, Mr H A was in hospital because of his broken hip and the applicant came to see him in hospital to see if he could help him with accommodation but he could not. He had four daughters aged between 15 years and 9 months and the house was simply too small to accommodate a young man whose presence would be questionable on moral or cultural grounds in any event.
184. He was quite clear that there was no sister between the applicant and his younger brother, Aa. Aa is about two years younger than the applicant.
185. He said in terms that he confirmed the applicant's date of birth is 2 May 1995. In answer to additional questions he confirmed that it was common in Afghanistan for young children to receive some attention on their birthdays. It was put to him that in Victoria's evidence he had said he remembered the applicant being born in 1995 but could not remember the day and the month. He said he had difficulty understanding Ms Aderinola's accent and there was some misunderstanding between them. For example it had never been his intention to convey the impression that the applicant's parents were killed two or three years before the meeting. It was the applicant's father who died in 2000.
186. He was cross-examined.

187. He confirmed that he is the younger brother of the applicant's father. He then gave very detailed and not always easy to follow evidence about where he lived in Afghanistan, where it was in relation to the applicant's home. It is at least possible that this difficulty arose because of the inconsistent descriptions about the location and it is not necessarily sinister or indicative of dishonesty.
188. He confirmed the evidence in his statement that he remembered the date of birth because he had to take the prescription from the hospital. He insisted that he could not understand Victoria Aderinola's accent but he did accept that he knew that she had asked about the date of birth and he said that he had said 1995.
189. He explained how he had been an army driver. He knew the applicant's birthday and did not need to read a prescription to be reminded of it. He then explained that the date was fixed in his mind because he had borrowed money on the same day as the birthday and the document containing the prescription and birthday was an aide-memoire concerning the debt. He borrowed 30 lakhs from a friend. He listed the order of the children.
190. He was not re-examined.

Analysis

191. We were given skeleton arguments from both sides to which we have had proper regard as well as full oral submissions which we have considered.
192. For the avoidance of doubt, we make it plain that we have reached no findings without considering the evidence as a whole and if the layout of our determination causes anyone to suspect that we have decided the case incrementally then that suspicion is wrong.

193. We have to begin somewhere and we begin by considering the age assessment form. This document has been correctly criticised. We are satisfied that it was not read over to the applicant properly. Certain things were clearly read over to him. That has never been in dispute. The points of contention or points that were going to be held against him were not referred to him in a way that enabled him to comment at an early opportunity if the evidence had been misunderstood or otherwise misconceived.
194. Nevertheless, we are satisfied that the applicant did on an earlier occasion give his year of birth as 1993 and we are satisfied that he did indicate that he had a younger sister between him and the younger brother. We recognise that sometimes people say things they just do not mean. We all have experience of a "slip of the tongue" or a "slip of the pen". Nevertheless, in any case involving a young man from Afghanistan it was likely that his claimed age could become important which we would expect to be recorded accurately. If the applicant was "off his guard" he may have said something that he did not mean to say but we find it inherently unlikely that the answer to such an important question would be recorded inaccurately.
195. Neither do we see any good explanation for Victoria Aderinola saying that the applicant had identified a younger sister or saying that he had had his molars removed or saying that he was entitled to a residential flat unless the applicant had made these claims. It is conceivable but, we find, inherently unlikely that she would make a mistake concerning the applicant's account of his position in the family. We can think of no sensible explanation at all for her noting comments by the applicant about the evidential difficulties caused by his not having any back teeth or his wanting a flat

except that the applicant did say the things attributed to him.

196. We note here but will consider it more below that we do not accept the severe criticisms of the photographs made. Many cameras distort images to some extent and it is not obvious to us from looking at the photograph that it is not a photograph of the applicant. Whether it is a photograph of the applicant taken when he was aged 13 as he claims is a different point.
197. Ms Aderinola was not an entirely satisfactory witness. Her reluctance to accept that certain points taken against the appellant were misconceived even when they plainly were, as evidenced by her refusal to accept the point taken on a mistranslated document, made her seem rather stubborn and inflexible even when it was plain that a mistake had been made. We have allowed for this but can still find no sensible explanation for her getting wrong the things indicated above. It would have required either mischief on her part or an extraordinary lapse in concentration on matters about which she was required as an employee doing her job to be particularly astute. We do not think she is wrong. We think she recorded accurately something the applicant now wishes he had not said.
198. These things aside there is nothing in the evidence and the age assessment which is particularly compelling. The applicant's approximate age is not the issue. We do however find some merit in the suggestion that his uncle would not have left him to his own devices if he had been as young as alleged.
199. Mr Dean was a more experienced witness than Ms Aderinola. His willingness to abandon misconceived points put him in a better light. We accept he gave a truthful account of things and we gave some weight to his opinion.

200. The applicant was an unsatisfactory witness. He was not able to deal with the points taken against him. Where there is a conflict between his recollection of events and Ms Aderinola's recollection we have, as we have indicated above, preferred hers.
201. We find the Tazkira a very unhelpful document. It was the applicant's own case that he supported his college application with the photograph that had been doctored to give a false impression. It is possible that he had developed facial hair at the age of 13. Certainly the photograph suggests a growing rather than mature moustache but we find it unlikely that his moustache would be as developed at 13 years of age as it is in the photograph. We do not go so far as to say the photographs were not of the same person. It is common knowledge that appearances can alter significantly with the sophistication of the camera used and the focal length of the lenses. We are not satisfied at all that the picture shown is of a man as young as 13 years of age. His inability to give a clear chronology did not assist. He did not impress as a straightforward witness.
202. His uncle's evidence supported the applicant and had the potential to assist him considerably. However the suggestion that the date of birth was fixed in his mind because of a prescription used as an aide-memoire of a debt appeared contrived. The applicant's uncle has an incentive to help him for family reasons and, when we set his evidence in the context of the case as a whole, we found him an unreliable witness.
203. The school teacher, Ms B, has given us food for thought. We recognise that school teachers are in a good position to assist the Tribunal. She had known the applicant over some months in circumstances where she would have seen him with his guard down and she would have considerable experience of young

people of about the age of the applicant. Nevertheless, her evidence was very impressionistic. She could only say he did not exhibit the kind of maturity she would have expected. Although she has known the applicant long enough to have a valid opinion, she has not known him for an extended period of time. She has also developed some wholly appropriate professional affection for him because it is the nature of teachers to care for young people in their charge. We find that she has gone along with his story but is not really in a position to know his age. The examples of his alleged immaturity could be the result of personal qualities that are not indicative of his youthfulness. For example he may have no experience of discussing sexual matters in mixed company and we find that a group of people can join in embarrassed laughter at almost any age. There could be many reasons for his being upset by play about an asylum seeker that are not age dependant.

204. Similarly Mr W was an honest witness with some experience of young people. He too has formed a personal bond with the applicant as he has tried to help him. He has not caught the applicant telling obvious lies and, again like Ms B, has gone along with what the applicant has said. Unlike Ms Aderinola, Mr W has not seen the applicant's assertiveness. If he had then, we find, he may have changed his opinion.

205. We are not impressed with the references to "Ms Wood", at the night centre, assessing the applicant's age at 25 years of age. She was not called as a witness and we accept that her comment about the applicant's age was a rather throwaway remark without much to back it up. We accept the answer as accurately recorded and no doubt said in good faith when it was said but it is not an informed or considered remark and was not subjected to scrutiny before us.

206. It is Dr Marsden's evidence we found most helpful. As we have indicated above, when he set out his evidence in detail, he was careful not to give it too much weight and we must not either. His evidence is not like DNA evidence which can say with confidence that something did not happen or more typically can say with a very high degree of probability that something did happen. His evidence was based on an impression formed by many years of relevant experience. It is an impression that was very carefully explained before us and the more his opinion was tested before us the more sense it made to us.
207. We were particularly impressed with his observation that he could construct a scenario that would allow the applicant to be younger than he thought him to be but that would apply only if a lot of unlikely things had happened. Dr Marsden was, we find, an entirely neutral witness whose only concern was to assist with a considered, objective and informed opinion.
208. By definition the things that probably happened are the likely things. We agree that it is very unlikely that the applicant's teeth erupted early enough and rotted quickly enough to be removed in time for the jaw bone to remodel in the way indicated and for the applicant still to be of the age claimed.
209. Dr Marsden did not claim that his evidence was particularly precise but it suggested that the applicant was considerably older than he claimed to be. There was an appreciable margin of error given in the applicant's favour. Dr Marsden thought he was looking at the mouth of a 25 year old but accepted that that figure had to be put with other strands of evidence.
210. There was no evidence before us to suggest, for example that the resorption noted by Dr Marsden could probably be explained by untested variables such as the distinctive individual

characteristics of this applicant's diet, mouth hygiene or ethnicity.

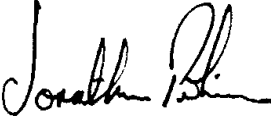
211. In the absence of any conflicting scientific opinion we found Dr Marsden's evidence to be very persuasive.

212. We find that the applicant is older than he now wants to admit. We find he did research his case before coming to the United Kingdom and did know about third molars being relevant. He did think he was entitled to more state assistance than he was getting. He did say he had a younger sister and recognised that this caused problems in constructing a plausible chronology and he had to invent a reason to discredit that slip on his part.

213. He is clearly a young man who has had difficulties. Whatever his reasons for leaving Afghanistan we accept that his travel to the United Kingdom was protracted and distressing. We are not surprised that he showed some kind of emotional collapse at a theatre production that touched a raw nerve with him.

214. Doing the best we can, we find that the applicant was born on 2 May 1993.~~~~0~~~~

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 8 May 2014