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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2

Thursday, 30th September 2004

B E F O R E:

MR JUSTICE JACKSON

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THE QUEEN ON THE APPLICATION OF C

(CLAIMANT)

-v-

LONDON BOROUGH OF ENFIELD

(DEFENDANT)

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MR R LATHAM (instructed by Harter and Loveless) appeared on behalf of the CLAIMANT
MR H HARROP-GRIFFITHS (instructed by the London Borough of Enfield) appeared on behalf of the DEFENDANT

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J U D G M E N T

1. MR JUSTICE JACKSON: This judgment is in four parts, namely part one, introduction; part two, the facts; part three, the present proceedings; and part four, decision.

1. Introduction

2. This is a claim for judicial review. The claimant challenges the assessment of her age, which has been made by the London Borough of Enfield. The claimant maintains that she is a child who was born on 12th February 1987. The London Borough of Enfield maintains that the claimant is an adult.

3. The Secretary of State was originally joined as an interested party in these proceedings. However, the Secretary of State has accepted that the claimant was born on 12th February 1987, and so he plays no part in the defence of these proceedings. The Secretary of State has faded out of the picture and I need not deal with any arguments which have been adumbrated against the Secretary of State at an earlier stage. The only relevant defendant is the London Borough of Enfield and, accordingly, I shall refer to the London Borough of Enfield as "the defendant".

4. Let me next say a few words about the background material against which this dispute arises. Section 105(1) of the Children Act 1989 defines a child as a person under the age of 18. In the case of asylum seekers, it is particularly important to establish whether or not an unaccompanied young person who arrives at these shores seeking asylum is an adult or a child. If that person is under the age of 18, he or she comes under a completely different regime in respect of support, welfare and accommodation.

5. There has been published a vast mass of guidance to assist local authorities and others who have to determine whether a young asylum seeker is or is not a child. There is policy bulletin number 33, entitled "Age disputes" published by the Home Office. There is Home Office guidance contained in an separate document. There are guidelines which have been published for the assistance and use of a number of local authorities, including the defendant in this case. Those guidelines are called "Practice guidelines for age assessment of young unaccompanied asylum seekers".

6. The guidelines set out clear rules as to how a fair interview should be conducted and how a fair assessment should be made of a young person whose age is in doubt. The point is made on the second page of the guidelines, in the paragraph which for convenience we have all numbered "8" in this hearing, that it is very important to ensure that the young person understands the role of the assessing worker and that attention should be paid to the level of tiredness, trauma, bewilderment and anxiety that may be present for the young person. In the paragraph which for the purposes of these proceedings we have numbered 10 the point is made that the practitioner should ask open-ended, non-leading questions and the point is made that the questioning of the young person must be done in a structured and generally sympathetic and accommodating manner.

7. There are other relevant guidelines which have been placed before me, including guidelines for paediatricians published by the Children's Fund.

8. All of this guidance material was considered by Stanley Burnton J in R (on the application of B) v London Borough of Merton Council [2003] EWHC 1689 (Admin); [2003] 4 All ER 280. Stanley Burnton J has set out a very useful summary of the various guidance documents which exist. Stanley Burnton J also in this judgment discusses those guidance documents. That discussion includes the following passages:

> "36. The assessment of age in borderline cases is a difficult matter, but it is not complex. It is not an issue which requires anything approaching a trial, and judicialisation of the process is in my judgment to be avoided. It is a matter which may be determined informally, provided safeguards of minimum standards of inquiry and of fairness are adhered to.
>
> "37. It is apparent from the foregoing that, except in clear cases, the decision maker cannot determine age solely on the basis of the appearance of the applicant. In general, the decision maker must seek to elicit the general background of the applicant, including his family circumstances and history, his educational background, and his activities during the previous few years. Ethnic and cultural information may also be important. If there is reason to doubt the applicant's statement as to his age, the decision maker will have to make an assessment of his credibility, and he will have to ask questions designed to test his credibility."

9. Stanley Burnton J went on to say that concepts such as the onus of proof are not helpful in this field. I will not go through the rest of Stanley Burnton J's judgment; suffice it to say that, in approaching this case, I have had regard to all of the guidance material which has been drawn to my attention and also to the summary of that guidance material and to the commentary on that guidance material in R (B) v London Borough of Merton Council. I consider that the commentary on the guidance material and on the approach to be followed which Stanley Burnton J sets out in his judgment is entirely helpful and I follow it.

10. Having set out those matters by way of background, I can now turn to the facts of the present case.

2. The Facts

11. The claimant is a young woman who fled from Angola to the United Kingdom in October 2003 and claimed asylum. The claimant asserted that she was born on 12th February 1987 and so aged 16 on arrival in the United Kingdom. The factual basis upon which the claimant claimed asylum may be summarised as follows. The claimant maintained that she feared that if she returned to Angola she would be killed or raped. The history which she gave, in essence, was this. She said that she had lived in Caxito with her mother, her father and her brother. Her brother disappeared in the early 1990s and her mother was detained by UNITA in 1986. In 1998 the MPLA forces attacked her village and captured her and her parents. They were all questioned about the whereabouts of UNITA forces and were beaten. The appellant claimed that as she was driven away by the MPLA, she witnessed her father's death and saw events leading up to her mother's death. She was held for some months in an MPLA camp, where she was forced to do menial work

around the camp. She and two other women escaped into the bush and went to Cabinda, where they lived for a year. On 2nd October 2003 FLEC attacked the village. She was captured and taken to a camp where she was raped. On 3rd October 2003 a priest known as Father John arrived in the camp and helped to her escape by a route which ultimately took the claimant to the United Kingdom.

12. The Secretary of State refused the claimant's claim for asylum by a letter dated 11th December 2003. The claimant appealed to an adjudicator, relying both upon the Refugee Convention and also upon the European Convention on Human Rights.

13. The adjudicator, Mrs Head, heard the claimant's appeal on 26th April 2004. She promulgated her decision on 17th May 2004. The adjudicator accepted the substance of the claimant's evidence. She accepted that the claimant was born on 12th February 1987. She accepted specifically the following facts. The appellant's older brother had disappeared without trace in the early 1990s. In 1998 when the appellant was 11 years of age her parents were killed by MPLA soldiers. The appellant herself was taken to an MPLA camp with other child hostages where she was physically ill-treated and forced to work for the soldiers. In 1999 she escaped from the camp and went into the bush where she survived over a period of time cultivating and living off the land with others in a village. In October 2003 that village was attacked by FLEC personnel and the appellant with others was abducted. The appellant was beaten and raped.

14. The adjudicator reached these conclusions, taking into account not only all the evidence before her concerning the claimant, but also all the objective evidence before her concerning the recent history and the troubled times of Angola. Nevertheless, the adjudicator concluded that if the claimant were now to return to Angola, she would not be at risk of persecution for a Convention reason because of the circumstances in Angola as they had evolved and developed by May 2004. Accordingly, the adjudicator dismissed the asylum appeal.

15. The adjudicator, however, allowed the claimant's human rights appeal. This was dealt with in paragraphs 36 to 41 of the determination. The adjudicator noted that the claimant was a particularly vulnerable person; she was a child separated from her parents, she was vulnerable upon return, she had suffered the appalling history narrated earlier in this judgment, and there was evidence of abuse and sexual mistreatment of young women who returned to Angola. The adjudicator concluded that to return the claimant at the present time, and she was then in the adjudicator's view a girl aged just 17, would be in breach of Article 3. Accordingly, in paragraph 42 of the determination, the claimant's appeal on human rights ground was allowed.

16. On the basis of the adjudicator's decision, the Secretary of State granted to the claimant leave to remain in the United Kingdom until her 18th birthday. That, in the view of the Secretary of State and indeed in the view of the adjudicator, is going to fall on 12th February 2005.

17. The immigration history which I have narrated forms the background to the crucial issues which this court has to decide in the present judicial review proceedings. I shall now turn

to the events which are of principle importance to the issues in this case. These events concern arrangements made for the claimant's accommodation and welfare.

18. When the claimant first arrived in this country, NASS assessed the claimant as being an adult and agreed to secure emergency support for her. On 7th October, the Refugee Council referred the claimant to the London Borough of Richmond for an assessment in the belief that she was, or may be, a child. The London Borough of Richmond assessed the claimant as an adult on 8th October. Between 8th October 2003 and 7th April 2004, NASS secured support for the claimant through Elite Care. Elite Care initially secured accommodation for the claimant in Enfield. In January 2004 Elite Care transferred the claimant to Edmonton in order to link her with other young women from Angola. NASS provided the claimant with financial support of £35 per week.

19. On 22nd October 2003, NASS issued an adverse decision against the claimant under section 55 of the Nationality Immigration and Asylum Act 2002. The basis of this was that NASS were not satisfied that the claimant had made her asylum claim as soon as reasonably practicable. This adverse decision was not initially acted upon. However, on 23rd November it appears that NASS recorded on their various records that asylum support would cease for the claimant.

20. Elite Care were subsequently notified that support for the claimant should cease on 7th April 2004. However, after that date, Elite Care allowed the claimant to remain in occupation of her accommodation in Edmonton, and the Refugee Council provided the claimant with £25 per week in cash. Elite care and the Refugee Council provided this support as a matter of charity pending the claimant's application for judicial review.

21. During early 2004, three reports were prepared which are of some significance for present purposes. The first is a report prepared by Dr Colin Michie, a consultant paediatrician, on or about 8th January 2004. This report was based upon an examination of the claimant on 8th January 2004. Dr Michie states that he is a general paediatrician in a busy hospital practice. One of his interests revolves around investigation of age. He has conducted over one thousand examinations in order to estimate age for a range of agencies over the last five years.

22. Dr Michie carried out a physical examination of the claimant and he also talked to her at some length about her past experience and events which might shed light on her age. Dr Michie noted her height, her physical build, he examined her teeth, he noted that there was only one erupted wisdom tooth, he noted that there was no early molar wear on the lower molars and no root retraction, he noted her weight, he noted her skin fold thickness, body mass index and similar features.

23. Dr Michie came to the conclusion, as set out in his report, that his observations were consistent with the claimant's stated date of birth and her stated age. The claimant was, of course, maintaining that she was born on 12th February 1987 and so, at the time of Dr Michie's examination, would have been aged just beyond her 17th birthday. Dr Michie went on to acknowledge that there is a margin of error in assessments of the nature that he carried out, and that margin of error was plus or minus two years. His conclusion reads as follows:

> "Following an interview and an initial examination using recognised, published and logical methods of measurement it is my opinion that C's age is consistent with a birthday in February 1987. This client merits the care and protection of Social Services as directed by the Children's Act of 1989."

24. It is quite clear that, although obviously an element of doubt subsisted, it was Dr Michie's view, based upon careful examination and consideration of the claimant and the evidence before him, that she probably was a child aged 17.

25. The second report of some significance which I should mention is a report prepared by Ms Mala German on 22nd April 2004. Ms German is an educational psychologist. She sets out in great detail the history given by the claimant, the various psychological tests which she carried out, and then Ms German comes to her conclusion:

> "C is a seventeen year old unaccompanied asylum seeking child who is currently seeking asylum in the UK. C has experienced a traumatic and tragic life history and as a result has been diagnosed as suffering from severe post traumatic stress disorder and is at risk of suicide."

26. The conclusion then goes on to deal with her learning difficulties and her emotional vulnerability and special medical needs. Ms German concludes that the claimant is a child who would warrant a section 20 assessment under the Children Act 1989 so that she can be looked after.

27. The third report which was prepared during this period, and which should be mentioned at this stage of the factual part of the judgment, is a report by Dr Raftopulos. Dr Raftopulos is a psychiatrist who assessed the claimant on 14th April 2004 at the request of Lola Adesemoye, who was C's mental health worker. Dr Raftopulos prepared his report dated 22nd April 2004. Again, this doctor set out the relevant factual history. He set out the result of his mental state examination and then he came to the summary section of his report. In that he wrote:

> "C continues to have typical features of severe post-traumatic stress disorder including episodes of repeated living of a traumatic experience as a young child with intrusive memories (flashbacks, nightmares) occurring against a persisting background of a sense of numbness and emotional blunting. She is detached from other people, unresponsive to her surroundings with Anhedonia and avoidance of activities and situations reminiscent of the trauma. She also seems to be in a state of autonomic hyper-arousal with hyper-vigilance and an enhanced startled reaction with insomnia."

28. He went on to describe her suicidal ideation and a number of other symptoms which were typical of post traumatic stress disorder. Dr Raftopulos made a diagnosis of post traumatic stress disorder and he considered that the claimant's symptoms appeared to have taken a chronic course.

29. In the last part of his report, Dr Raftopulos wrote:

> "In my opinion C's main stressor at present is the ongoing issue of her status. I do not think C will be able to give clear and coherent evidence against the pressures of attending and giving live evidence at court.
>
> "As stated above C is suffering from severe post traumatic stress disorder. This anxiety disorder caused by previous severe trauma causes an inability to recall completely important aspects of the period of exposure and following the exposure to the trauma experienced as a child and adolescent. The increased anxiety of being interviewed in court will exacerbate these symptoms. As to whether this will cause her immediate or long term harm is difficult to comment on, but what is evident is that she is a very fragile adolescent who has clearly expressed suicidal thoughts over the two weeks."

30. On 23rd April 2004 the defendant carried out its own assessment of the claimant. The assessing officer was Mr Alan Pritchard. The team manager responsible for the assessment was Ms Aisha-Jafaru-Ehizogie. I will refer to her as the team manager. The outcome of the assessment is recorded in a hand written form, which has been helpfully typed up for the purpose of these proceedings. The assessment comes to the conclusion that the claimant's age was 18 plus. Section 1 deals with the physical appearance and demeanour of the claimant and in that section the assessing officer expresses the view that the claimant's general demeanour and appearance suggests someone over the age of 18. I interject to say that this assessment is not the same as that of Dr Michie. In this section, the assessing officer makes the point that the claimant was very withdrawn in the interview and the assessment was very difficult.

31. In section 2, the assessing officer says that the claimant showed signs of distress, she seemed locked into herself and she appeared comfortable with the interpreter but uncomfortable with the adults who were present, who she perceived as being the persons with authority. In section 3, reference was made to the claimant not grasping some simple questions which were asked of her. In section 4, the point is made that the claimant was not at all forthcoming about her early life in Angola and it was difficult to extract much from her, other than the fact that she used to help her mother selling fish and a few vague references to her school. The assessing officer took the view that the claimant was holding back basic information. Section 5 of the assessment refers to the fact that there were large gaps in the narrative which the claimant gave about her education.

32. The assessment continues through other relevant topics until one comes to section 9, "Analysis of information gained". This section reads as follows:

> "Because of the problems in obtaining detailed information regarding dates of birth, school dates, outside activities, the journey to the UK, academic subjects, one can't help but arrive at the conclusions drawn up by the Home Office in regards to the vagueness of C's answers.

> "Taking into account the very traumatic conditions within Angola and taking into account how these conditions and issues have impacted upon the young lady, it is the opinion of myself and my manager Aisha Jafaru that C was withholding important background details. There was no way we could verify any aspects of her narrative.
>
> "Also, we have taken into account her physical demeanour. This leaves us in no doubt that C is over 18 years of age and is therefore not entitled to support under section 17, section 20 of the Children's Act.
>
> "Our conclusions have been carefully assessed, where the benefit of doubt arose we spent time assessing what little information we could gather. In our view this assessment is not inconclusive."

33. The claimant was aggrieved by the outcome of this assessment. Her solicitors noted that the outcome was inconsistent with the decision reached by the adjudicator shortly after that assessment was made by the defendant. The claimant's solicitors requested the defendant to revise its assessment and to treat the claimant as a child. By a letter dated 15th June the claimant adhered to its original assessment and declined to revise that decision. The claimant was aggrieved by the defendant's maintaining of its original decision and accordingly she commenced the present proceedings.

<u>3. The present proceedings</u>

34. By a claim form issued on 2nd July 2004, the claimant challenged two decisions. First, the decision made on 23rd April 2004 that the claimant was not and is not a child for the purposes of the Children Act 1989. Secondly, the decision on 15th June 2004 to adhere to the original assessment and not to revise the decision that the claimant was an adult.

35. The grounds of the claim, as set out in the claim form, were as follows. As far as the first decision was concerned there were five grounds: (i) the defendant failed to ascertain why the claimant believed that she was born on 12th February 1987; (ii) in assessing her physical appearance, the defendant failed to have regard to the findings of Dr Michie; (iii) the defendant failed to consult their Child Guidance Service, who could give them much relevant material; (iv) the defendant failed to conduct the assessment fairly and in a proper manner; (v) the defendant, in carrying out the assessment, failed to have adequate regard to the claimant's fragile and vulnerable mental health. Clearly those five grounds are fleshed out in greater detail in the claim form.

36. As far as the second decision is concerned, there are four grounds of challenge: (i) good administration requires an attempt by the relevant authorities to seek a common position, and that was not achieved in this case; (ii) the assessors had regard to the state of opinion of the Home Office that the claimant was not credible, however by 15th June the defendant had the benefit of the adjudicator's decision to the effect that the claimant was credible; (iii) the defendant's assertion that the claimant was evading awkward questions and being untruthful rested on an unsatisfactory basis, namely one interview, however that assertion was repeated in the letter of 15th June; (iv) the original assessment was

unsatisfactory in many ways and therefore it should have been revised in the light of the adjudicator's decision.

37. The defendant does not accept any of those grounds of claim and has put in clear and concise grounds of defence resisting the claim. The defendant maintains, if I may put it quite shortly, that the assessment was carried out properly and fairly, all relevant matters were taken into consideration, the defendant reached a decision which it was entitled to reach, that decision is not amenable to challenge in this court and there is no reason why the defendant ought to have reversed or revised its decision in June 2004.

38. These proceedings come on today for the substantive hearing. Mr Latham appears for the claimant and Mr Harrop-Griffiths appears for the defendant. Both counsel have put their arguments clearly and concisely. They have given me considerable help. They have dealt courteously with my concerns and questions and I am grateful to both counsel for their assistance.

39. Mr Latham drew to my attention at the start of his submissions a new witness statement which has recently been lodged by the defendant. This new witness statement is the statement of the team manager. Although that statement is lodged out of time, Mr Latham did not seriously resist its reception into evidence and I ruled that I would allow the statement to go in and to form part of the evidence. There are many areas of conflict between the statement of the team manager on the one hand and the two statements prepared by the claimant's solicitors for the purpose of these proceedings on the other hand. It is not necessary for me to venture into disputed areas of fact for the purpose of determining the questions which I have to decide in this judicial review challenge.

40. Having narrated the course of proceedings up to today's hearing, I can now give my decision and my reasons on the issues which arise.

4. Decision

41. The present situation is far from satisfactory. An adjudicator has held that the claimant's date of birth is 12th February 1987 and that the claimant is now aged 17. The Secretary of State accepts that the claimant was born on 12th February 1987 and that she is now aged 17. That acceptance is set out in a letter from the Treasury Solicitor sent to this court two days ago explaining why the Secretary of State would not be represented at today's hearing. Nevertheless, the London Borough of Enfield persists in its contention that the claimant is and was at all material times over the age of 18.

42. Despite this unfortunate circumstance it is the case that the London Borough of Enfield is entitled to, and indeed has a duty to, make up its own mind about the claimant's age and, although it should have regard to the views of others, the London Borough of Enfield is not compelled to follow those other views. Nevertheless, as I say, it is a highly unfortunate situation for this young unaccompanied female asylum seeker to be in that different authorities are taking different stances on such an important question concerning her accommodation, support and welfare.

43. Let me now turn to the challenges which are mounted to the original decision on 23rd April 2004. On the view of the case which I take, this is the central decision upon which I must focus. I will deal with the grounds of challenge in the order set out in the claim form.

44. Ground one. In my view, it was an obviously relevant question for the assessors to ask of the claimant in the interview why she maintained that she was born on 12th February 1987. This question was not asked. If it had been asked, the answer which the claimant would probably have given appears in paragraph 22 of her first witness statement. The answer was that she knew her date of birth because birth dates of pupils was a topic discussed at school, so she asked her mother and father what her birth date was and this was something which she raised in discussions in her class at school. So I do regard the first ground of challenge as well-founded.

45. Mr Harrop-Griffiths, on behalf of the defendant, points out forcefully that the claimant was extremely reluctant to answer most of the questions about her early life and, submits Mr Harrop-Griffiths, it is highly unlikely that the claimant would have answered this particular question if asked. On the contrary she was holding back information about her early life and that in itself was highly suspicious, pointing towards a young person who was not telling the truth.

46. I am not persuaded by Mr Harrop-Griffiths' submissions. It seems to me that the claimant's reluctance to answer general questions about her youth, and the woolliness of the few answers which she did give, is directly the product of her psychiatric condition as described in the various reports which I have mentioned in part two of this judgment. It will be recalled that the psychiatrist considered that the claimant was unfit to give evidence before the adjudicator and so recommended. Therefore, I do not consider that adverse inferences should have been drawn from the general reticence of the claimant and her reluctance to answer questions. However, we can see from the assessment form that the claimant did give certain information about her early life. She said that she assisted her mother in selling fish, she spoke about her school, although she did so vaguely, and since the whole purpose of the interview was to establish the claimant's age, I think it probable that, if she had been asked why she asserted she was aged just 17 at that time, she would have answered that particular question.

47. I come now to the second ground of challenge. It seems to me remarkable that in the assessment no mention is made at all of the report of Dr Michie. Mr Harrop-Griffiths, in his skeleton argument, says this:

> "Dr Michie. There is nothing to suggest that his report was not given the weight it deserved. His opinion allows for an age between 15 and 19 and so is not inconsistent with the finding that she was 18+."

48. Mr Harrop-Griffiths adopted and repeated this particular argument in the course of his oral submissions today. I quite accept that the margin of error set out in Dr Michie's report allows for the possibility that the claimant was aged 18 plus. Nevertheless, it is clear from Dr Michie's report as a whole that Dr Michie, a very experienced paediatrician and a very experienced man in this kind of assessment, took the view that the claimant

was probably 17. He went on to acknowledge a possible margin of error in either direction. In other words, she might be as young as 15. That view of Dr Michie was based, as I have said, upon a careful consideration of a number of features of the claimant, an examination of parts of her body and careful reflection upon the answers which she gave when questioned in a fair and sympathetic environment.

49. The assessing officers of the defendant took the view that the assessment which was made on 23rd April was a very difficult assessment. The defendant's officers got very little assistance from the Council when questioning the claimant. In those circumstances, one would expect particular regard to be paid to the useful and helpful information provided by Dr Michie. Furthermore, if the assessors came to the conclusion that Dr Michie was wrong, in my judgment they would be expected to indicate that in the assessment form and to say why they thought it was wrong. On all the evidence before me, I am driven to the conclusion that the assessing officers either took no account at all, or else took no material account, of the report of Dr Michie.

50. I come now to the third ground of challenge. The statement by the team manager in paragraph ten reads as follows:

> "The Child Guidance team was consulted about the supporting letter which they gave to C. I spoke to Lola Adesemoye."

51. It is clear from the material before me that the Child Guidance team and Ms Lola Adesemoye had a great deal of useful information to impart. What Miss Adesemoye had to say appears from paragraphs 11 to 13 of the adjudicator's decision, where the adjudicator summarises the evidence given before her by Miss Adesemoye. I will not read out those paragraphs, but they include an account of the anti-depressant medication which the claimant was receiving at that time, her mental health problems and the treatment that she was receiving from Dr Raftopulos.

52. There is no reference in the assessment at all to what Miss Adesemoye had to say and indeed the team manager's statement does not reveal what Miss Adesemoye had to say. I am driven to the conclusion that any conversation with Miss Adesemoye was brief and did not materially contribute to the assessment.

53. I turn now to the Child Guidance team. The Child Guidance team had written a letter which was before the assessing officers. That letter is dated 11th February 2004 and it includes the following paragraph:

> "C has suffered from many family losses, has witnessed much violence and was physically abused and raped herself. We will be referring her to a Child and Adolescent Psychiatrist to make an assessment, as we believe that she is suffering from Post Traumatic Stress Disorder. In addition the current difficulties and stress caused by her solicitor's support being withdrawn is having an adverse effect on her mental health."

54. This was a highly material letter and it is clear from that letter that the Child Guidance team had a material contribution to make to the assessment. However, it is not clear from

the witness statement of the team manager what account was taken of whatever the Child Guidance team had to say and there is no reference to it in the assessment document.

55. This letter from the Child Guidance team refers to the fact that a psychiatrist is going to make an assessment. The letter was written on 11th February 2004 and in my view it would have been highly relevant for the assessors to make enquiries about that psychiatric assessment. If the assessors had done so, they would have been able to ascertain the gist of the report which Dr Raftopulos was preparing, dated 22nd April 2004. None of the material from Miss Adesemoye, the Child Guidance Council or Dr Raftopulos is referred to in the assessment of 23rd April. In my judgment, these are highly material matters which were either left wholly out of account or were left substantially out of account. It seems to me that this evidence concerning the psychiatric condition of the claimant explains why she was so taciturn and reluctant to answer in interview.

56. I come to grounds four and five. I can deal with these two grounds together. In essence, the claimant is contending in this part of her claim form that the interview was conducted unfairly, having regard to her age, her mental and medical condition and having regard to the numerous guidance documents referred to in part one of this judgment.

57. It is quite right, as both counsel have indicated, that there are conflicts between the witness statements of the claimant on the one hand and the witness statement of the team manager on the other hand concerning precisely what happened during the interview. Nevertheless, I can see some common ground between the witness statements and it is clear to me from all of the witness statements that the interview was carried out in an unduly hostile manner, given the condition of the claimant.

58. The interview got off to an unfortunate start as it appears from the witness statement of the team manager. One can see from paragraph 6 of the team manager's witness statement that the team manager had an argument with the interpreter, who she considered to be taking the claimant's side in matters unfairly and inappropriately. This is not a matter for which the claimant can be blamed in any way and it is most unfortunate that the interview got off to such an unhappy start.

59. It can be seen from paragraphs 8 and 9 of the team manager's witness statement that the view was taken that the claimant was being evasive and untruthful in her interview, she was holding back things which she could say, and that the suspicions of the Council's officers were aroused. A view was taken that the claimant was speaking from a script and that she had been coached.

60. We now know that the claimant was not speaking from a script and that she had not been coached. The adjudicator has accepted the gist of the account given by the claimant of her horrific experiences during her young life in Angola. Mr Harrop-Griffiths for the defendant does not ask me to reject the adjudicator's general conclusions concerning the experiences of the claimant in Angola. Therefore, it seems to me that there was unduly hostile questioning of the claimant based upon a false belief that the claimant's account of her life in Angola was the product of coaching and a script. I quite accept that, when a young person's age is in dispute, that young person has to be questioned and questions

must be put in order to test that person's credibility. However, I consider that in the particular circumstances of this case the questioning was unduly hostile and this caused the claimant to "clam up" and resulted in a situation in which the assessors wrongly disbelieved the claimant's evidence.

61. Let me now draw the threads together. I have come to the conclusion that the assessment which was made of the claimant's age on 23rd April 2004 cannot stand, essentially for two reasons. One, the assessing officers failed to take into account relevant considerations and matters as set out above. Two, the manner of the interview was unfair and unduly hostile having regard to the claimant's age, her vulnerable condition and her state of mental health. I shall seek assistance from counsel as to the precise form of order, however, in general terms, I consider that the proper order is an order that the decision of 23rd April be quashed and a direction that the defendant Council do carry out a fresh assessment of the claimant.

62. It follows from what I have said above that it is not necessary for me to go into the grounds upon which the second decision is attacked. The first decision has fallen and, unless either counsel disagree, I will not embark upon an analysis of the second decision. Indeed, I see an indication from the claimant's counsel that he does not seek a ruling on the second decision, which clearly should not have arisen for decision in the first place.

63. For all those reasons this claim for judicial review succeeds and the decision of 23rd April 2004 is quashed.

64. MR HARROP-GRIFFITHS: I was just going to say, we will carry out an assessment so it is not necessary, in my submission, that there should be an order to that effect, unless your Lordship...

65. MR JUSTICE JACKSON: No, I am entirely content with that. Are you content with that, Mr Latham?

66. MR LATHAM: Indeed, if my learned friend added "and continue the current support until that assessment is completed", then I think yes.

67. MR HARROP-GRIFFITHS: I did not say those words, but I do not see how I can say anything other than that. Clearly that must follow. At this stage, may I say that it will not be carried out by the same people who carried out her last interview.

68. MR JUSTICE JACKSON: Yes. I hope that the people who carried out the assessment will not take this judgment personally. They have a huge workload and they do very valuable work, dealing with a large number of asylum seekers.

69. MR LATHAM: I do not know if I made it clear, I probably did not, but the lady behind me is the manager.

70. MR JUSTICE JACKSON: Well I hope that she will accept what I say. Sometimes when administrative decisions are put under the spotlight or under the microscope they do fall. I cannot think of any local authority in respect of whom that does not happen from time to time.

71. MR LATHAM: My Lord, could I raise two very brief points. I raise it largely because I anticipate that this judgment may be of interest to local authorities having to carry out these assessments. Firstly, my Lord referred to the Home Office being a defendant. Strictly they are an interested party. Secondly, I think my Lord referred to Dr Michie as being a very experienced psychiatrist. He is, of course, a paediatrician.

72. MR JUSTICE JACKSON: I am grateful for those two points, Mr Latham. They were actually both slips of the tongue, which I repeated but will correct in the transcript.

73. MR LATHAM: My Lord, we are agreed on relief. I would simply ask for costs and my normal public funding assessment.

74. MR HARROP-GRIFFITHS: My Lord, I cannot resist.

75. MR JUSTICE JACKSON: Very well. Thank you very much.