Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/08329/2012

THE IMMIGRATION ACTS

Heard at Sheldon Court Birmingham
On 12th September 2013

Determination Promulgated
On 2nd October 2013
…………………………………

Before

UPPER TRIBUNAL JUDGE PITT
DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

N D
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Mahmood, Counsel instructed by Asylum Aid
For the Respondent: Mr D Mills, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant appeals against a determination of Judge of the First-tier Tribunal W L Grant and Mr J H Eames (the Panel) promulgated on 15th August 2012. The Panel

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dismissed the Appellant's appeal against the Respondent's decision dated 28th March 2012 to refuse to revoke a deportation order which had been made on 25th June 2008.

Immigration History

2. The Appellant is a male citizen of the Democratic Republic of Congo (DRC) who was born in 1964. The Appellant arrived in the United Kingdom from Calais on 1st March 1997 and claimed asylum. This application was refused on 3rd March 1997 and the Appellant submitted an application for judicial review. On 7th March 1997 he was granted temporary admission and on 29th November 2000 his asylum claim was substantively refused, and he lodged an appeal against that decision.

3. Although he had an outstanding appeal, the Appellant lodged a fresh claim for asylum on 11th February 2002. His appeal was dismissed in a determination promulgated on 8th October 2002. His fresh claims for asylum were refused on 3rd April 2003 and 29th May 2003. His subsequent appeal was refused in a determination promulgated on 8th December 2003. This was his second appeal hearing.

4. On 13th January 2004 the Appellant applied for leave to remain outside the Rules which application was refused on 8th March 2004 with no right of appeal. He then made a further application on 6th April 2006 which was refused on 25th May 2006.

5. On 29th November 2007 the Appellant was convicted for possessing a false identity with intent to commit fraud and was sentenced to ten months' imprisonment and recommended for deportation. He was served with a notice of intention to make a deportation order on 19th February 2008. His appeal against the decision to make a deportation order was dismissed in a determination promulgated on 19th May 2008 which was his third appeal hearing.

6. The deportation order was served on 27th June 2008 and the Appellant made further representations on 16th July and 9th September 2008 which were treated as an application to revoke the deportation order. These applications were refused on 14th November 2008 with no right of appeal. Prior to this refusal, the Appellant made further representations on 26th August 2008, which were refused on 18th September 2008.

7. On 8th June 2009 the Appellant lodged judicial review proceedings against the refusal decision of 14th November 2008. These proceedings were treated as a further application to revoke the deportation order and were refused on 7th July 2009, and the appeal certified under section 94(2) of the Nationality, Immigration and Asylum Act 2002.

8. The Appellant then submitted further representations on 14th February 2011 on asylum and human rights grounds, and made an application for revocation of the deportation order. The Respondent made a decision to refuse to revoke the deportation order on 28th March 2012 and issued a letter of that date giving reasons. The Appellant's appeal against that decision was heard by the Panel on 3rd August 2012, which was the Appellant's fourth appeal hearing.

9. The Appellant's case initially was that in the DRC he had been a member of the Union for Democracy and Social Progress (UDPS) having joined this organisation in 1980. He led a strike of sugar workers opposed to the management of the sugar company for whom they were employed, and this took place between 12th and 14th October 1996. He claimed that he was arrested on 14th October 1996 and accused of organising an illegal strike. He was detained and ill-treated. He escaped from prison and travelled to Kinshasa and subsequently travelled to France, from where he travelled to the United Kingdom arriving on 1st March 1997.

10. The Appellant subsequently claimed that his wife and children had been murdered because of adverse interest in him by the authorities. In 2007 while in the United Kingdom the Appellant joined the Patriots Alliance for the Re-foundation of the Congo (APARECO). He claimed that he would be persecuted if returned to the DRC because of his membership of UDPS and APARECO, and he should therefore be granted asylum. In the alternative he claimed humanitarian protection, and that to remove him would breach Articles 2, 3 and 8 of the 1950 European Convention on Human Rights (the 1950 Convention).

11. The Panel noted that the Appellant's account had not been believed in three previous appeals, and none of those decisions had been successfully appealed. The Panel applied the principles in Devaseelan [2002] UKAIT 00702. The issues before the Panel related to the risk to the Appellant in view of his political activities in the United Kingdom against the government in the DRC, and/or as a result of his claim for asylum in this country, and whether his deportation was contrary to his rights under Article 8 of the 1950 Convention.

12. The Panel dismissed the appeal on all grounds, finding that the Appellant had no political profile, and that he would not be at risk if returned to the DRC. The Panel concluded that the Appellant had not been of adverse interest to the authorities before leaving the DRC, and had not undertaken any activities in the United Kingdom that would bring him to the adverse interest of the authorities in the DRC.

13. The Appellant applied for permission to appeal to the Upper Tribunal. He did not appeal against the finding that to remove him from the United Kingdom would not breach Article 8 of the 1950 Convention.

14. The Appellant relied upon four grounds. Firstly it was contended that the Panel had gone behind concessions in relation to the Appellant's involvement in APARECO.

15. Secondly it was contended that the Panel had made no findings on relevant evidence as to the risk to unsuccessful asylum seekers returned to the DRC.

16. Thirdly the Panel wrongly treated the Respondent's Operational Guidance Note as if it constituted evidence.

17. Fourthly the Panel reached unsustainable conclusions as to the Appellant's involvement in demonstrations.

18. Permission to appeal was granted by Judge of the First-tier Tribunal J M Holmes on 31st August 2012, who found all the grounds to be arguable.

19. The Tribunal issued directions that there should be a hearing before the Upper Tribunal to ascertain whether the First-tier Tribunal had erred in law such that the decision should be set aside.

Error of Law

20. Deputy Upper Tribunal Judge Robertson heard the appeal on 20th May 2013 and found no error of law in relation to grounds 1, 3 and 4.

21. In relation to ground 2 it was argued that the Panel had made no findings upon a report entitled Unsafe Return compiled by Catherine Ramos and dated 24th November 2011 and this therefore amounted to a material error of law. The Panel also had a letter from Mary Glindon MP dated 11th July 2012, in which she stated that the DRC Ambassador to the United Kingdom had announced to an All-Party Parliamentary Group that DRC asylum seekers had all been members of the former oppressive regime in the DRC, and "having committed terrible crimes in this country have to be suitably punished when they return". The Panel did not attach weight to this letter, finding this was a view expressed in relation to those who came from the DRC, gave a false story in the United Kingdom in order to seek benefits, and then committed crimes, and because the view was inconsistent with the Respondent's Operational Guidance Note (OGN).

22. Judge Robertson found that there was nothing within the letter that confirmed that a failed asylum seeker would be punished on the basis that he was a member of the former repressive regime, and that at no point had the Appellant been able to establish in his previous appeal hearings that he was involved in any political activities in the DRC such that he would be known to the authorities on his return. Judge Robertson observed that the Panel were correct to note that whilst Mr Justice Collins had granted an injunction to prevent a removal to the DRC on the basis that the Ambassador's statement should be investigated, this was on 11 July 2012 and at the appeal hearing in August 2013, no further evidence had been adduced, to alter the position as set out in the country guidance decision BK (Failed asylum seekers) DRC CG [2007] UKAIT 00098.

23. However Judge Robertson found that the Panel's failure to analyse the Unsafe Return report was a material error. The Panel did not refer to the report or consider if, taken with the letter from Mary Glindon MP, there was sufficient evidence before them to depart from BK, in relation to whether asylum seekers who were not known to the authorities in the DRC would be at risk on return. Furthermore the Panel had not given reasons for preferring the background material set out in the OGN as to the treatment of failed asylum seekers, rather than the material contained within the Unsafe Return report.

24. The determination of the Panel was therefore found to contain a material error of law in relation to the assessment of risk on return and was set aside. Directions were

issued that there should be a further hearing before the Upper Tribunal in relation to the assessment of risk on return, but it was not open to either party to re-open any of the other issues considered and concluded by the Panel as recorded in paragraphs 14–24 and 26–30 of the determination.

Re-Making the Decision

25. At the hearing before us Mr Mahmood renewed an application for an adjournment which had previously been made on the papers and refused. This was on the basis that there was to be a hearing before the Administrative Court dealing with an appeal with similar issues, and it had been anticipated that there would be a hearing in October 2013, but Mr Mahmood understood that it was now more likely that the hearing would not take place until 2014. It was suggested that it would be of assistance to the Upper Tribunal, if some guidance on these issues was given by the Administrative Court.

26. Mr Mills did not oppose the application.

27. We refused the application for an adjournment, deciding that we had sufficient information before us to justly determine the appeal. One of the issues raised in the adjournment application was the letter from Mary Glindon MP, and we noted that the Respondent had considered and responded to this letter in section 14 of the DRC Country Policy Bulletin issued by the Respondent in November 2012. We had not been made aware of any specific evidence that was to be considered by the Administrative Court that would assist us in our deliberations, and we were concerned that there would be a further unwarranted delay in the hearing of this appeal. In our view, on the information provided to us, it appeared unlikely that any decision would be issued by the Administrative Court within six months, and we therefore decided that it was appropriate to proceed with the appeal hearing.

28. The Appellant attended the appeal hearing, and we ascertained that he understood the interpreter. We were however informed that the Appellant would not be called to give evidence.

29. We received from Mr Mills the Country Policy Bulletin of November 2012 referred to earlier, and another Country of Origin Information Bulletin prepared in February 2013. Mr Mahmood had been given copies of these documents, and we received from Mr Mahmood his skeleton argument dated 12th September 2013.

The Appellant's Submissions

30. Mr Mahmood relied upon his skeleton argument in which reliance is placed upon the letter from Mary Glindon MP dated 11th July 2012, a Guardian newspaper report of 16th January 2012, the Unsafe Return report dated 24th November 2011, and evidence that there remains a suspension of removals to the DRC until 19th February 2004.

31. Mr Mahmood then addressed us upon the Policy Bulletins provided by Mr Mills. In relation to the November 2012 Bulletin we were referred to section 10.1 which indicates that returning Congolese are likely to be interviewed and subjected to systemic searches and extortion of their private belongings. Section 10.4 referred to the Unsafe Returns report which confirmed that of fifteen returnees, one had ransom paid from the UK, three had ransom paid by family and friends in the DRC, two paid bribes before removal, two had money stolen while in prison, four had money or belongings stolen from them at the airport, and one was given money in the UK to assist passage through the airport.

32. Section 10.6 concluded that extortion and bribery of all returnees from Western Europe takes place within the DRC by officials, although the comment is made that there is no evidence that this constitutes serious mistreatment. Mr Mahmood submitted that the comment in paragraph 323 of BK that this did not amount to serious harm or treatment contrary to Article 3 of the 1950 Convention was wrong.

33. Mr Mahmood went on to submit that BK was out of date and that there had been relevant case law decided by the Supreme Court, such as RT (Zimbabwe) [2012] UKSC 38 which indicated that an individual would be entitled to asylum if, whatever his views, he felt compelled to lie in order to avoid persecution. We were asked to accept that the only way that the Appellant would be able to travel through and leave the airport would be if he lied about his opposition to the DRC government.

34. Mr Mahmood submitted that the Policy Bulletin confirmed that extortion occurred, and therefore we had to consider why that occurred, and it was submitted that this extortion amounted to persecution or to treatment that breached Article 3.

35. We were then referred to section 11 of the November 2012 Bulletin which indicated that detention occurs only under certain circumstances, one of which is if the returnee has committed a crime in the country from which they are returned. Our attention was drawn to section 11.4 and the comment that "the conditions of prison need attention."

36. Section 14 of the Bulletin dealt with the remarks made by the DRC Ambassador, referred to in the letter from Mary Glindon MP and in section 14.5, the Ambassador was reported to have said that people deported for having committed crimes in the UK are held in custody for a period of time to allow the Congolese Justice System to clarify their situation.

37. Section 15 of the Bulletin dealt with the Respondent's response to recommendations made in the Unsafe Return report. Mr Mahmood made the point that the evidence provided by the Appellant, such as the Unsafe Return report, and the letter from Mary Glindon MP, should be preferred to comments made in the Policy Bulletin, which were not evidence.

The Respondent's Submissions

38. Mr Mills submitted that the Unsafe Return report did not prove that the guidance given in BK was no longer appropriate. We were reminded that BK had been upheld by the Court of Appeal. Mr Mills pointed out that the Unsafe Return report indicated that fifteen out of seventeen individuals who had been returned to the DRC between August 2006 and June 2011 had been ill-treated, although it had not been possible to investigate these claims as the individuals had been anonymised, and although the Respondent had requested their details, this request had been refused. We were asked to accept that this undermined the weight to be attached to the report. Mr Mills pointed out that the COI Bulletin of February 2013 at section 1.01 indicated that the total enforced removals between 2006 and 2011 amounted to 354.

39. Section 14 of the 2012 Bulletin considered the remarks of the DRC Ambassador referred to in the letter written by Mary Glindon MP, and it was submitted that the Ambassador had written to Mrs Glindon on 16th August 2012 to clarify the position, and in that letter stated that failed asylum seekers are not at risk of arrest and torture on return and are reunited with their families. The Ambassador stated that people deported for having committed crimes in the United Kingdom are held in custody for a period of time to allow the Congolese Justice System to clarify their situation.

40. Turning to the February 2003 Bulletin, at section 1.03 we were asked to note that the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) had forwarded a survey to participating states and that of eleven participating states that provided answers, (Australia, Belgium, Canada, Germany, Ireland, Netherlands, New Zealand, Norway, Sweden, Switzerland and the United Kingdom), nine had carried out enforced returns to the DRC between 2009 and 2012.

41. Section 2.02 of the February 2013 Bulletin indicated that none of the eleven participating states that provided answers to the questionnaire, were aware of any returnees facing mistreatment upon return to the DRC.

42. Mr Mills referred to sections 3 and 4 of the Bulletin, which considered the position of Human Rights Watch, and Amnesty International respectively, as at June 2012. We were asked to note that HRW had indicated that returns is not an issue that the organisation had considered because they had been overwhelmed by other issues in Congo. Amnesty International had stated that they had not been in a position to collect specific information on the issue due to a lack of resources, although this did not mean that there was no concern, but simply that the organisation did not have the resources to research the issue of returns.

43. Mr Mills submitted that if a risk to returnees existed, Human Rights Watch and Amnesty International would have commented upon it.

44. In relation to the point made by Mr Mahmood on RT Zimbabwe, Mr Mills contended that there was no indication in the background evidence, to support the submission that the Appellant would be stopped and questioned about his allegiance to the DRC

government and he would therefore not be forced to lie, and RT Zimbabwe did not have any applicability to this appeal.

The Appellant's Response

45. Mr Mahmood referred us to page 10 of the February 2013 Bulletin, in which it was stated that Amnesty International had commentated that failed asylum seekers "may be perceived to favour the opposition because they claimed asylum and because the diaspora abroad is very strongly against the current regime".

46. We were asked to accept that there would be extortion when the Appellant was returned, as indicated by the background evidence, and the DRC Ambassador had confirmed the people deported for having committed crimes in the United Kingdom would be held in custody for a period of time. Mr Mahmood repeated his submission that extortion amounts to either persecution, or treatment prohibited by Article 3, which is treatment that amounts to torture or inhuman or degrading treatment or punishment.

47. At the conclusion of oral submissions we reserved our decision.

Our Reasons and Conclusions

48. In re-making this decision we bear in mind that the burden of proof is on the Appellant and can be described as a reasonable degree of likelihood, which is a lower standard than the normal civil standard of the balance of probabilities. We must look at the circumstances as at the date of hearing.

49. The Appellant would be entitled to asylum if he is outside his country of nationality and recognised as a refugee, as defined in Regulation 2 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006 as a person who falls within Article 1A of the 1951 Geneva Convention. The onus is on him to prove that he has a well-founded fear of persecution for a Convention reason (race, religion, nationality, membership of a particular social group or political opinion), and is unable or, owing to such fear, unwilling to avail himself of the protection of the country of his nationality.

50. If not entitled to asylum the Appellant would be eligible for humanitarian protection under paragraph 339C of the Immigration Rules, if he establishes substantial grounds for believing that if he was removed from the United Kingdom he would face a real risk of suffering serious harm, and is unable or, owing to such risk, unwilling to avail himself of the protection of the country of return.

51. In relation to Articles 2 and 3 of the 1950 Convention, it is for the Appellant to establish that if removed from the United Kingdom there is a real risk of him being killed, or subjected to torture or inhuman or degrading treatment or punishment.

52. Although the Appellant raised Article 8 of the 1950 Convention before the First-tier Tribunal, he did not seek to appeal against dismissal of his claim on that basis, and therefore Article 8 is not before us.

53. BK, although decided in 2007, has not been replaced or superseded as a country guidance decision and therefore must be treated as authoritative, based upon the evidence that was before the Tribunal. The country guidance given is therefore authoritative in any subsequent appeal, so far as that appeal relates to the country guidance issue in question, and depends upon the same or similar evidence.

54. We are asked, on behalf of the Appellant, to conclude that evidence has been placed before us, to indicate that BK should no longer be followed.

55. We will summarise the findings of the Asylum and Immigration Tribunal as set out in BK. It was put to the Tribunal that failed asylum seekers on return to the DRC are perceived as traitors or as persons who have dishonoured the country and therefore are deserving of ill-treatment. The Tribunal rejected this contention in paragraphs 191 to 195 and found that not to be the case.

56. It was put to the Tribunal that failed asylum seekers from the United Kingdom faced an additional risk to those returned from other countries, because the ruling group in Kinshasa perceives the Congolese community in the United Kingdom as aggressively anti-regime. The Tribunal found that this was not the case and stated inter alia in paragraph 197;

> "Furthermore we come back to the point that elsewhere in his evidence E1 (like E2) emphasises that the Kabila regime has a number of agents in the UK who pay particularly close attention to the political activities of DRC nationals in the UK and who are said to have photographs of everyone who has attended demonstrations or other anti-Kabila events. Viewed against this background, we consider it naïve to suggest that the DRC authorities are unable to differentiate between those in the DRC diaspora who are anti-regime and those who are either loyal or apolitical."

57. The Tribunal also considered the issue of extortion and bribery at the airport to which returnees are returned in the DRC. The Tribunal found that the evidence did not demonstrate that the bribe asking at the airport is generally accompanied by threats of violence or the actual use of violence. The Tribunal stated inter alia in paragraph 320;

> "In our view the main body of reliable evidence indicates that normally failed asylum seekers (and ordinary travellers) do not have their money and jewellery or other personal effects taken from them on arrival and also indicates that normally they are able to negotiate passing through airport controls by paying a bribe in circumstances which are generally not oppressive."

In paragraph 323 the Tribunal stated;

> "Accordingly we are not persuaded that for deportees or failed asylum seekers the difficulties they commonly face in being expected and required to pay a bribe amounts to treatment contrary to Article 3 ECHR or to serious harm."

58. The Tribunal concluded in paragraph 385;

> "Despite concerted efforts by a significant number of people – lawyers, NGOs and others – and despite there having been a long lead-in period to the hearing and conclusion of this case during which members of the UK's DRC diaspora have been encouraged by leaflets and public meetings in over six cities to come forward with cases, we have found no evidence to substantiate the claim that returned failed asylum seekers to the DRC as such face a real risk of persecution or serious harm or ill-treatment."

59. The findings of the Panel, which are preserved, are that the Appellant would be returned to the DRC with no political profile as a person opposed to the regime there. He would therefore be returned as an individual who has been resident in the United Kingdom since 1997, and whose asylum claim has not been believed, and who has been forced to leave the United Kingdom.

60. We do not accept the submission made in the skeleton argument that there has been a general suspension of removals to the DRC until 19th February 2014. We do accept that following the remarks of the DRC Ambassador which was reported by Mary Glindon MP, Mr Justice Collins ordered that a DRC claimant should not be returned until those remarks had been investigated. That order was made on 5th July 2012. We have not however been presented with evidence to prove that there has been a general suspension of returns, and section 12 of the November 2012 Bulletin indicates that returns are made to Kinshasa, and in section 15 of that Bulletin which deals with the Respondent's response to recommendations made in the Unsafe Return report, it is indicated that the Respondent does not consider that any change in the returns policy to DRC is warranted.

61. Dealing with the RT (Zimbabwe) point which was not mentioned in Mr Mahmood's skeleton argument of 12th September 2013, but which was referred to in oral submissions, we do not find that the background evidence indicates that this Appellant would be forced to lie about his political beliefs if returned to the DRC. He would not be returned as an individual with a known anti-regime profile. Mr Mahmood relied upon the February 2013 Bulletin at page 10 in which the comment was made that Amnesty International believed there was some evidence that failed asylum seekers may be perceived to favour the opposition because they claimed asylum, but we do not find that evidence has been produced to prove that this is reasonably likely. Background information about Amnesty International confirmed that the organisation had not been in a position to collect specific information about returnees, and had not had the resources to research this issue.

62. We conclude that the DRC Ambassador to the United Kingdom has clarified his position, which is not as was initially believed to be the case by Mary Glindon MP. We have no reason to doubt what is stated in section 14.5 of the November 2012

Bulletin, (and we accept that the Bulletins themselves are not evidence) in which it is confirmed that the Ambassador wrote a letter on 16th August 2012 to clarify his comments, and he expressed the view that failed asylum seekers are not at risk of arrest and torture on return and are reunited with their families in Kinshasa. He indicated that people deported for having committed crimes in the United Kingdom are held in custody for a period of time to allow their situation to be investigated.

63. This issue was examined by the Tribunal in BK and it was stated inter alia at paragraph 188;

> "It was common ground between the parties that persons involuntarily returned or expelled from the UK to the DRC will not be seen as normal returnees. They will be questioned with a view to establishing what type of expellee they are; and in particular whether they are either a failed asylum seeker or a deportee."

64. The Tribunal did not find that this questioning would amount to persecution or ill-treatment.

65. We have considered at length the Unsafe Return report, compiled by Catherine Ramos, who also wrote the article for the Guardian newspaper on 16th January 2012 raising concerns that refused asylum seekers returned from the UK to the DRC were being tortured. We have to consider whether sufficient weight should be attached to this report, to enable us to disregard the guidance given in BK. The report relates to seventeen returnees, and contends that fifteen of the seventeen were ill-treated on return. This was because the returnees were viewed as perceived or actual political opponents of the current DRC regime.

66. We note that the Respondent requested details of the returnees so that the claims could be investigated. The details were not forthcoming, and the returnees have all been anonymised.

67. We note what was stated by the Tribunal in paragraph 386 of BK;

> "In the event of any future investigations being conducted of returned failed DRC asylum seekers, those concerned should take steps to ensure that basic relevant particulars are sought. Public funds, not to mention valuable judicial resources, are involved and must not be expended uselessly. In particular, we consider that where someone is known to have been a failed asylum seeker in the UK, initial efforts should be directed to obtaining (with authorisation) details of that person's asylum claim and the outcome of any appeal. As vividly illustrated by the case of WY, that would at least ensure that the investigations into their claims about abuse on return have some external reference point for gauging the truth of what is now claimed."

68. We conclude that the fact that the individuals in the Unsafe Return report have been anonymised (which of course is their right), means that it has not been possible to consider the details of their asylum claims, and what findings were made in relation to their claims, if they had appeal hearings. This undermines the weight to be attached to the report.

69. We also found that the report had to attract less weight where it described only 17 of the 354 returns that were effected between 2006 and 2011.

70. We have compared the evidence considered in the Unsafe Return report, with the evidence considered by the Tribunal in BK, which included expert evidence, and it is our view for the reasons set out above that the Unsafe Return report does not carry sufficient weight such that the conclusions in BK should not be followed.

71. Therefore applying country guidance, and background information to the Appellant's case, we do not find that he would be of adverse interest to the DRC authorities on return, because he does not have a profile in opposition to the regime in the DRC. We accept that he would be questioned, but we do not find that as a deportee, he would face treatment that would amount to persecution, or treatment prohibited by Articles 2 and 3 of the 1950 Convention.

Decision

The determination of the First-tier Tribunal contained an error of law and was set aside. We substitute a fresh decision.

The appeal is dismissed on asylum grounds.

The Appellant is not entitled to humanitarian protection.

The appeal is dismissed on human rights grounds.

Anonymity

The First-tier Tribunal made an anonymity direction pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. We continue that order pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed Date 23rd September 2013

Deputy Upper Tribunal Judge M A Hall

FEE AWARD

No fee was paid or is payable. The appeal is dismissed. There is no fee award.

Signed Date 23rd September 2013

Deputy Upper Tribunal Judge M A Hall