Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: DA/00679/2014

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 27 June 2017	**On 17 August 2017**

Before

THE HONOURABLE MR JUSTICE JEREMY BAKER
DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

HM
(ANONYMITY DIRECTION MADE)

Respondent

Representation:
For the Appellant: Mr I Jarvis, Home Office Presenting Officer
For the Respondent: Miss C Hulse, Counsel instructed by Virgo Solicitors

DECISION AND REASONS

1. This is the hearing of the appeal by "HM" against the Secretary of State for the Home Department's decision, dated 26 March 2014, refusing to revoke a previous deportation order. The relevant chronology is as follows.

2. HM, who is now 37 years of age, was born in Uganda on 22 October 1979. On 29 November 1991, he, together with his brother "SM", who was born on 19 May 1977, and is now aged 40, arrived in the United Kingdom. HM

was 12 years of age at that time. The Secretary of State refused his application for asylum, but granted exceptional leave to remain as a dependant of his mother, until 29 November 1992. On 28 September 1996 HM was granted indefinite leave to remain.

3. On 17 February 1998 HM was convicted of murder. He was 17 years of age at the date of the offence, and 18 at the date of his conviction. The brief circumstances of the offence are that he was a member of a group who, together with his brother SM, went to the victim's house. Some members of the group were armed with weapons, including knives, and the victim was stabbed to death. On 13 March 1998 HM was sentenced to detention at Her Majesty's pleasure, with a minimum term of ten years which was subsequently reduced to nine on appeal.

4. In 2005 HM commenced a relationship with "JR" who already had a son, "K", who was born on 13 March 2004 and is now aged 12. At that time, HM was in open conditions within the prison establishment. On 25 February 2006, the Secretary of State served a deportation notice on HM, and on 6 March 2006 he was released from prison.

5. On [ ] 2006 HM's daughter "S" was born, and is now aged 10. On 10 February 2008, HM was detained and served with a deportation notice, but on 18 April 2008 he was released on bail. On 7 July 2008, HM's and his brother SM's appeal against the deportation notice was allowed under Article 8 ECHR grounds by Immigration Judge Nichols. On 14 August 2008, judicial review of the Immigration Judge's decision by the Secretary of State was granted, and, on 5 January 2009, Senior Immigration Judge Lane refused HM's appeal against the deportation notice. Thereafter, there was a series of applications for permission to appeal by HM, which were refused by the Court of Appeal, on 18 February 2009 and 20 April 2009. On 23 April 2009, the Secretary of State made a deportation order against HM, and on 11 May 2009 HM was detained. However, although HM's oral renewal of his application for permission to appeal to the Court of Appeal was refused on 11 June 2009, HM was released on bail on 17 July 2009.

6. On [ ] 2010 HM's son "T" was born, and is now 7 years of age. On 15 May 2012, HM applied to revoke the deportation order on Article 8 ECHR grounds. On 9 November 2012, the Secretary of State refused the application to revoke the deportation order. On 28 March 2013, the High Court refused HM's application for permission to judicially review the decision of the Secretary of State, and, on 10 May 2013, HM was detained, but then released on bail on 10 June 2013. On 23 January 2014, the Secretary of State served a notice of liability for deportation upon HM. On 17 February 2014, HM submitted a response to the notice of liability for deportation. On 26 March 2014, the Secretary of State refused HM's application to revoke the deportation order.

7. On 1 July 2014, the First-tier Tribunal allowed HM's appeal against the deportation order, on Article 8 ECHR grounds. In the course of the

judgment, the FTT found that HM had rebutted the presumption, under Section 72 of the Nationality, Immigration and Asylum Act 2002, that he constituted a danger to the community, but found that he was neither a refugee, nor entitled to asylum.

8. On 17 July 2014, the Secretary of State's application for permission to appeal against the decision of the FTT was granted. On 2 October 2014, Upper Tribunal Judge Moulden and Lord Boyd allowed the appeal by the Secretary of State, on the basis that the FTT had unduly focused upon delay by the Secretary of State, and adjourned the rehearing of the determination of HM's Article 8 ECHR challenge. The rehearing took place on 10 February 2017. Upper Tribunal Judge Moulden allowed HM's appeal against the deportation order on Article 8 ECHR grounds.

9. On 11 April 2017, the Court of Appeal allowed the Secretary of State's appeal against the decision of Upper Tribunal Judge Moulden. The basis upon which they did so was, *inter alia*, that he had overly focused on the effect of the deportation order on the children, which was a matter already taken into account under the exception in Section 117C(5) of the 2002 Act, and had insufficiently focused upon whether there were very compelling circumstances, over and above those described in the exceptions in Section 117C(4) and (5). Therefore, the matter now comes before us to determine.

10. The respondent submits that, under Section 32 of the UK Borders Act 2007, the Secretary of State must make a deportation order in respect of a foreign criminal, unless one of the exceptions in Section 33 applies. There is no doubt that HM is a foreign criminal, as defined by Section 32(1) of the 2007 Act, and one of the exceptions is that the removal of the foreign criminal would be a breach of his Convention rights. Insofar as the Secretary of State is concerned, the Immigration Rules relating to deportation are to be found in Part 13, and paragraphs 398 to 399A apply, where an individual asserts that his deportation would be contrary to Article 8 ECHR. The current situation, which is effective from 28 July 2014, under paragraph 398, is as follows:-

> "398. Where a person claims that their deportation would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, and
>
> (a) the deportation of the person from the UK is conducive to the public good and in the public interest because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years ...
>
> the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, the public interest in deportation will only be outweighed by other factors where there are very

compelling circumstances over and above those described in paragraphs 399 and 399A."

11. Paragraph 399A relates to the situation where a person has a relationship either with a child under the age of 18 who is in the United Kingdom and/or with a partner who is in the United Kingdom and is a British citizen or settled in the United Kingdom. Paragraph 399A applies to a person who has been lawfully resident in the United Kingdom for most of their life.

12. However, we are particularly concerned with the provisions of the Nationality, Immigration and Asylum Act 2002, as amended by the Immigration Act 2014, which, as from 28 July 2014, introduced Part 5A of the 2002 Act, which applies where a Tribunal is required to consider an appeal from a deportation decision by the Secretary of State, which is alleged to be in breach of Article 8. It is provides as follows:-

"117A Application of this Part

(1) This Part applies where a court or Tribunal is required to determine whether a decision made under the Immigration Acts –

(a) breaches a person's right to respect for private and family life under Article 8, and

(b) as a result would be unlawful under Section 6 of the Human Rights Act 1998.

(2) In considering the public interest question, the court or Tribunal must (in particular) have regard –

(a) in all cases, to the considerations listed in section 117B, and

(b) in cases concerning the deportation of foreign criminals, to the considerations listed in Section 117C.

(3) In sub-section (2), 'the public interest question' means the question of whether an interference with a person's right to respect for private and family life is justified under Article 8(2).

117B……

117C Article 8: additional considerations in cases involving foreign criminals

(1) The deportation of foreign criminals is in the public interest.

(2) The more serious the offence committed by a foreign criminal, the greater is the public interest in deportation of the criminal.

(3) In the case of a foreign criminal ('C') who has not been sentenced to a period of imprisonment of four years or more, the

public interest requires C's deportation unless Exception 1 or Exception 2 applies.

(4) Exception 1 applies where—

(a) C has been lawfully resident in the United Kingdom for most of C's life,

(b) C is socially and culturally integrated in the United Kingdom, and

(c) there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.

(5) Exception 2 applies where C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.

(6) In the case of a foreign criminal who has been sentenced to a period of imprisonment of at least four years, the public interest requires deportation unless there are very compelling circumstances, over and above those described in Exceptions 1 and 2.

(7) The considerations in sub-sections (1) to (6) are to be taken into account where a court or Tribunal is considering a decision to deport a foreign criminal only to the extent that the reason for the decision was the offence or offences for which the criminal has been convicted."

13. The construction of Part 5A of the 2002 Act has been considered by the Court of Appeal in the case of **Rhuppiah v Secretary of State for the Home Department [2016] EWCA Civ 803** where Lord Justice Sales stated:-

"45. It is common ground that the starting point for consideration of the proper construction of Part 5A of the 2002 Act is that sections 117A-117D, taken together, are intended to provide for a structured approach to the application of Article 8 which produces in all cases a final result which is compatible with, and not in violation of, Article 8. In that regard, both sides affirmed the approach to interpretation of Part 5A to ensure compliance with Article 8 as explained by this court in **NA (Pakistan) v Secretary of State for the Home Department** [2016] EWCA Civ 662, in particular at [26] and [31]."

14. Lord Justice Sales went on to state, at paragraph 50:-

> "50. Another type of consideration identified in Part 5A to which regard must be had under section 117A(2) is the statement in section 117C(6) that 'the public interest requires deportation unless there are very compelling circumstances, over and above those described in Exceptions 1 and 2' (my emphasis). There is a similar requirement in section 117C(3), on its proper construction: see **NA (Pakistan) v Secretary of State for the Home Department v Secretary of State for the Home Department** at [23]-[27]. In these provisions, Parliament has actually specified what the outcome should be of a structured consideration of Article 8 in relation to foreign criminals as set out in section 117C, namely that under the conditions identified there the public interest requires deportation. The 'very compelling circumstances' test in section 117C(3) and (6) provides a safety valve, with an appropriately high threshold of application, for those exceptional cases involving foreign criminals in which the private and family life considerations are so strong that it would be disproportionate and in violation of Article 8 to remove them. If, after working through the decision-making framework in section 117C, a court or Tribunal concludes that it is a case in which section 117C(3) or (6) says that the public interest 'requires' deportation, it is not open to the court or Tribunal to deny this and to hold that the public interest does not require deportation."

15. In the present case, the Court of Appeal, in **NE-A (Nigeria) and HM (Uganda) v Secretary of State for the Home Department [2017] EWCA Civ 239**, considered the cases of, inter alia, **Hesham Ali v Secretary of State for the Home Department [2016] UKSC 60**, **MF (Nigeria) v Secretary of State for the Home Department [2013] EWCA Civ 1192** and **Huang v Secretary of State for the Home Department [2007] UKHL 11**.

16. In the course of his judgment, with which McFarlane LJ and Flaux LJ agreed, Sir Stephen Richards accepted that the analysis in **Rhuppiah** (supra) was strictly obiter. However, he considered that it was correct, and should be followed. At paragraphs 14 and 15, he stated:-

> "14. ... I see no reason to doubt what was common ground in **Rhuppiah** and was drawn from **NA (Pakistan)**, that sections 117A-117D, taken together, are intended to provide for a structured approach to the application of Article 8 which produces in all cases a final result which is compatible with Article 8. In particular, if in working through the structured approach one gets to section 117C(6), the proper application of that provision produces a final result compatible with Article 8 in all cases to which it applies. The provision contains more than a statement of policy to which regard must be had as a relevant consideration. Parliament's assessment that 'the public interest

requires deportation unless there are very compelling circumstances, over and above those described in Exceptions 1 and 2' is one to which the Tribunal is bound by law to give effect.

15. None of this is problematic for the proper application of Article 8. That a requirement of 'very compelling circumstances' in order to outweigh the public interest in the deportation of foreign criminals sentenced to at least four years' imprisonment is compatible with Article 8 was accepted in **MF (Nigeria)** and in **Hesham Ali** (supra) itself. Of course, the provision to that effect in section 117C(6) must not be applied as if it contained some abstract statutory formula. The context is that of the balancing exercise under Article 8, and the 'very compelling circumstances' required are circumstances sufficient to outweigh the strong public interest in the deportation of the foreign criminals concerned. Provided that a Tribunal has that context in mind, however, a finding that 'very compelling circumstances' do not exist in a case to which section 117C(6) applies will produce a final result, compatible with Article 8, that the public interest requires deportation. There is no room for any additional element in the proportionality balancing exercise under Article 8."

17. It is apparent that a significant amount of material has been provided by HM to the various Tribunals which have considered his Article 8 rights. In summary, the matters which have been particularly relied upon at this hearing include his relationship with his partner, which has subsisted since 2005, and his relationship with his three children, one, a stepchild, with whom he has been in a relationship since his release from prison, and the other two children, since their respective births.

18. In addition, it is of significance that HM has not committed any further offences since his release from prison. He has striven to find employment, and has been successful in doing so; as we understand it, he is now a qualified gas engineer. It has been determined that he is not a danger to the community, and he assists with mentoring troubled teenagers. Moreover, it is now approximately twenty years since the date of the original offence, which was committed at a time when he was still relatively young, namely 17 years of age, and he was released from prison about ten years ago.

19. On behalf of HM, it is pointed out that both K and T have, and continue to face, particular difficulties. K has been diagnosed with Asperger's Syndrome and ADHD, and, more recently, T has been diagnosed with autistic spectrum disorder.

20. Evidence concerning these matters was placed before the original FTT, and is in our bundle, between D32 and E1. It comprises a significant amount of material, including statements from those who know HM and his

partner, which speak extremely highly of HM, and the way in which he has striven to lead a conscientious and crime-free life, and the care which he devotes to his family. In addition, there was medical evidence which supported K's diagnoses of Asperger's Syndrome and ADHD.

21. This evidence, together with other factors, were summarised, very helpfully, by the Court of Appeal in the judgment of Sir Stephen Richards at paragraphs 36 and 37, as follows:-

> "36. The contents of the first list were: (1) K was just 10 years old and had a diagnosis of Asperger's Syndrome and ADHD; he regarded HM as his father; (2) HM had two children of his own, then aged 7 and 4; (3) all the children were British; (4) HM lived in a settled home environment with the children and their mother with whom he had been in a relationship since 2005; (5) HM and his partner worked and provided for the three children; (6) HM took his parental role seriously and was supportive of his partner; (7) K paid particular attention to HM and responded better to him than to K's mother; (8) HM's partner and the children would not move to Uganda if HM were deported, because of K's educational and medical needs; (9) if HM were deported to Uganda there was a real possibility that his partner would not be able to continue her work, and certainly not her current hours; (10) the partner did not know how she would cope with the stress of being a single parent to three children one of whom had extremely challenging behaviour; and (11) there was evidence that changes to the family structure could have a seriously detrimental impact upon K's behaviour and well being. Considering those factors overall the FTT found that the best interests of the children lay in HM remaining with them and the family unit continuing as it was.
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> 37. The second list continued the numerical sequence: (12) HM was released from prison in March 2006 but was not served with a notice of intention to deport until February 2008; (13) the Secretary of State took no steps to deport HM between July 2009, when his initial appeal rights were exhausted, and May 2012; (14) HM came to the UK as an 11 year old and was now 35; (15) he was 17 when he committed the crime for which he was convicted; (16) he was found guilty of murder, a very serious crime; (17) the risk of his re-offending was low; (18) he had worked since his release from prison and had a good reference from his employer; (19) he volunteered at a school offering help and advice to 14-17 year olds and was part of a mentoring programme for troubled teenagers who had been expelled from school or those who had had a troubled childhood; and (20) he had no family ties with Uganda other than a brother there."

22. This morning Miss Hulse in helpful submissions has provided us with further evidence, including a bundle of documents, paginated between

pages 1 and 31, which provides up-to-date information in relation to the effect that the medical conditions, concerning both K and T, has upon both their lives, and that of the family.

23. In addition, in relation to T, there are two further documents which have been provided to us, firstly, dated 15 June 2017, from Karen McElligott, a therapist, and, secondly, dated 16 June 2017, from the educational psychologist, Juliette Daniel. The first of these describes T as a delightful boy who has difficulties with his posture, manual dexterity and sensory processing, all of which impacts on his daily activities. It advises the type of programmes and equipment which have been provided to address these issues. The second document, from Juliette Daniel, notes that T had been diagnosed with autistic spectrum disorder in November 2016 by the Croydon Child and Adolescent Mental Health Service, and in summary states that:-

> "[T] is a pupil whose overall cognitive ability lies within the average range. His reading and spelling skills are developing along appropriate lines. His numeracy skills are below average and he is receiving small group intervention. He has asd and a visual timetable is in place to provide a structure. Staff would need continue to monitor his social interactions and relationship with his peers and provide support if needed, such as including him in a social skills group."

24. In addition to these documents, Miss Hulse places particular emphasis on the report, which formed the backdrop to previous decisions, from the independent social worker, Peter Horrocks, dated 2 February 2015 relating to all three of the children, who are cared for by HM and his partner. It is quite clear that each of the children would like HM to stay in their lives in the United Kingdom. That was voiced directly by both K and S, and inferred, quite appropriately, in the case of T. Mr Horrocks gives his opinion upon the likely effect of any change in their circumstances, in particular if HM was returned to Uganda. He concluded that, so far as K was concerned, with the difficulties he faced from his disorders, it would have a significant impact on his functioning and emotional wellbeing, and that there was likely to be a significant deterioration in K's behaviour. Likewise, in respect of the other children it would have had a detrimental effect. Insofar as HM's partner is concerned, she would struggle to meet all aspects of her children's needs, if she remains in the United Kingdom and HM is deported to Uganda, because she would, in effect, be a single parent. So far as the best interests of the children are concerned, Mr Horrocks stated:-

> "In my professional opinion it is in the best interests of the children of this family if [HM] was to remain in the UK and to continue playing his role as father of the family and partner to [JR]. Currently the family functions to a high degree and they are able to manage the additional needs of [K], whereby he remains in mainstream education and is

making very positive educational progress. This is in my opinion a happy family unit and the children's needs are being met to a high degree, all three children of this family are achieving and progressing as a result."

25. He concluded that, if HM was returned to Uganda, this would have a fundamental and detrimental impact on the family unit. It is to be noted that this opinion was provided at a time when T had not yet been diagnosed as suffering with autistic spectrum disorder, and, as Miss Hulse correctly points out, the detrimental effect is likely to be enhanced, so far as he is concerned, because of the difficulties which he faces as a result of that disorder.

26. The approach of this court to whether or not there are very compelling circumstances, over and above those described in exceptions 1 and 2, has been considered in a number of cases, in particular in **NA (Pakistan) v Secretary of State for the Home Department [2016] EWCA Civ 662** where, at paragraph 30, the Court of Appeal stated:-

> "30. In the case of a serious offender who could point to circumstances in his own case which could be said to correspond to the circumstances described in Exceptions 1 and 2, but where he could only just succeed in such an argument, it would not be possible to describe his situation as involving very compelling circumstances, over and above those described in Exceptions 1 and 2. One might describe that as a bare case of the kind described in Exceptions 1 or 2. On the other hand, if he could point to factors identified in the descriptions of Exceptions 1 and 2 of an especially compelling kind in support of an Article 8 claim, going well beyond what would be necessary to make out a bare case of the kind described in Exceptions 1 and 2, they could in principle constitute 'very compelling circumstances, over and above those described in Exceptions 1 and 2', whether taken by themselves or in conjunction with other factors relevant to application of Article 8."

27. Furthermore, in **MM (Uganda) & Anor v Secretary of State for the Home Department (Rev 1) [2016] EWCA Civ 617** the Court of Appeal stated at paragraph 24:-

> "24. This steers the tribunals and the court towards a proportionate assessment of the criminal's deportation in any given case. Accordingly the more pressing the public interest in his removal, the harder it will be to show that the effect on his child or partner will be unduly harsh. Any other approach in my judgment dislocates the 'unduly harsh' provisions from their context. It would mean that the question of undue hardship would be decided wholly without regard to the force of the public interest in deportation in the particular case. But in that case the term

> 'unduly' is mistaken for 'excessive' which imports a different idea. What is due or undue depends on all the circumstances, not merely the impact on the child or partner in the given case. In the present context relevant circumstances certainly include the criminal's immigration and criminal history."

28. In the present case, Miss Hulse submits that there are very compelling circumstances, over and above those described in exceptions 1 and 2, which would render disproportionate any decision to return HM to Uganda. She focuses on the effect which the deportation would have on all three children, and in particular on K and T. She submits that K, whilst being intelligent, has difficulty with social skills and boundaries, and that T's condition carries its own difficulties which are likely to require a level of care, over and above that of a child who does not suffer from such a disorder. She contrasts the present situation, in which both parents in full-time employment, HM as a gas engineer and his partner as a mental health nurse, look after the children and themselves without recourse to public funds, with that, if HM is deported, in which it is unlikely that HM's partner would be unable to continue her full-time employment, as she would be obliged to look after the three children on her own. Miss Hulse relies upon the report of Peter Horrocks, and the more recent documents, to show the detrimental effect that separation from their father figure would have upon the children. She points to the positive effect which HM's presence has upon the children, which will be lost if he is deported. She submits that it would not be possible for the family to relocate to Uganda, because the children have lived all their lives in this country, as has HM's partner, and they would lose both the extended family which they have in this country, and their employments. Moreover, she submits that it is likely that the mental health services provided in Uganda would be less effective than those provided in the United Kingdom. She submits that, because of these factors, if HM is returned to Uganda, it is the present intention of HM's partner to remain in the United Kingdom, and care for the children as a single mother.

29. On the other hand, Mr Jarvis, who appears on behalf of the Secretary of State, submits that, although there is the additional factor of the disorders from which both K and T suffer, the effect of HM's deportation is no more than that in other cases where children form part of the family unit. He submits that if HM's partner chooses to remain in the United Kingdom, the children will not only have the continuing benefit of their mother's care, but she will have the support of the extended family, and particularly in relation to K and T, the valuable assistance already being provided by the local authority and the National Health Service. He submits that, in those circumstances, the effect of returning HM to Uganda will not be unduly harsh upon either HM's partner or the children.

30. We have given anxious scrutiny to the circumstances relating both to HM and to the family unit, and in particular to the difficulties which are faced by both K and T.

31. Turning firstly to consider section 117C(4) of the 2002 Act, and putting to one side the issue of the period of his lawful residence in the United Kingdom, although we accept that HM is both socially and culturally integrated in the United Kingdom, we do not consider that there would be very significant obstacles to his integration into Uganda. HM spent the first 12 years of his life in Uganda, and would have been socially and culturally integrated into Uganda at that time. He is clearly an individual of intelligence and aptitude, and is likely to be able to reintegrate into the culture and society of his childhood. Moreover, he has employment skills which he would be able to redeploy in Uganda, and, if returned, he would be reunited with his brother SM, who has previously been deported to Uganda, due to his previous conviction for murder. HM has also not been lawfully resident in the United Kingdom for most of his life, as he ceased to have status when the deportation order was made against him in April 2009.

32. Turning secondly to consider section 117C(5) of the 2002 Act, we accept that HM not only has a genuine and subsisting relationship with his partner, but also has a genuine and subsisting parental relationship with the three children, K, S and T. We have carefully considered the issue as to whether the effect of his deportation on his partner and/or the children would be "unduly harsh". We of course accept that, in accordance with the opinion of Mr Horrocks, it would be in the children's best interests for HM to remain in the United Kingdom. However, although this is not a matter without considerable significance, it is not the sole, nor necessarily the determinative issue in this case. In the vast majority of cases, the removal of the father figure is likely to have a significantly detrimental effect upon the children, albeit we accept that in the present case this is likely to be enhanced, due to the particular difficulties faced by both K and T. However, when considering this issue, it is also necessary to take account of the extremely serious nature of HM's previous conviction for murder, albeit committed at time when he was 17 years of age, and his immigration history. In this regard, it is not without significance that HM and JS commenced their relationship at a time when HM was still subject to a custodial regime, and, prior to his release from custody, he had already been served with a notice of deportation. Therefore, throughout their relationship, both HM and JS have been aware of the precarious nature of HM's immigration status, and the Secretary of State's determination to effect his removal to Uganda.

33. It is also of significance that if HM were to return to Uganda, and, as presently understood, his partner and their children remain in the United Kingdom, the children would continue to benefit from the devoted care which has been provided to them by their mother since their births. It may be that JS would be unable to continue to undertake full-time, as opposed to part-time employment, and therefore be at least partly dependent upon state benefits. However, the value of the care which she has provided to her children to date, and would no doubt continue to provide, is not in doubt. Moreover, in so far as K and T are concerned, it is clear that the

local authority and National Health Service already provide significant assistance with their extra needs. Not only is there every reason to believe that this will continue, but there is no reason to doubt that if, due to HM's absence, further needs arise, these too will be provided by the local authority and the National Health Service.

34. Taking all these factors into account, we do not consider that the effect of HM's deportation upon either JS or the children, whilst undoubtedly detrimental, would be unduly harsh.

35. However, we have in any event, considered whether taking all relevant factors into account, there are very compelling circumstances, over and above those described in section 117C(4) and (5), such that the effect of HM's deportation would be disproportionate, and amount to an unlawful interference with HM's right to respect for private and family life under Article 8(2) ECHR. In this regard, we note that since his release from his sentence of custody, HM has refrained from any further criminal conduct. Moreover, he has trained for and obtained valuable employment, and has positively contributed to advising troubled teenagers. Although we do not underestimate any of these factors, we would observe that remaining free of crime is a generally expected societal norm, and, as we have already observed, HM will be able to adapt and transfer the valuable skills which he has learned to his new circumstances in Uganda. In the event, we do not consider that, either on their own or when considered together with the other factors already considered in relation to section 117C(4) and (5), there are very compelling circumstances, over and above those described in Exceptions 1 and 2.

36. In these circumstances, and bearing in mind the public interest in the deportation of foreign criminals, such as HM, we do not consider that the decision of the Secretary of State, refusing to revoke a previous deportation order, is disproportionate, and amounts to an unlawful interference with HM's right to respect for his family and private life under Article 8(1) ECHR.

Notice of Decision

37. Therefore, for these reasons, we dismiss the appeal made by HM against the decision of the Secretary of State dated 26 March 2014, refusing to revoke her previous deportation order.

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

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed Date: 17/08/2017

Mr Justice Jeremy Baker