Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/04681/2018

THE IMMIGRATION ACTS

Heard at Manchester Civil Justice Centre	**Decision & Reasons Promulgated**
On 29 October 2019	**On 4 December 2019**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

GANG [Z]
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr V Jagadesham, instructed by TRP Solicitors
For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of the respondent made on 7 February 2018 to refuse his human rights claim.

2. His appeal against that decision was allowed by the First-tier Tribunal in a decision promulgated on 16 November 2018 but, for the reasons set out in the attached decision, that decision was set aside by the Upper Tribunal.

3. The appellant arrived in the UK on 14th January 1992 and was granted leave to enter as a student until 14th January 1993. On 3rd April 1992 he

was granted further leave to remain until 31st December 1994. His leave to remain as a student was subsequently further extended until 25th July 1996.

4. On 16th November 1995 the appellant pleaded guilty to the manslaughter of his wife. He was sentenced to three years' imprisonment.

5. On 9th May 1996 the appellant was notified of his liability to deportation. On 19th June 1996 a decision was made to make a deportation order. The appellant appealed against that decision on 27th June 1996 and made an asylum claim on 11th December 1996. The asylum claim was refused on 17th January 1998. The appellant entered an appeal which was treated as abandoned when he failed to attend the hearing. On 26th October 1998 a signed deportation order was served on him.

6. On 26th April 2001 the appellant was listed as an absconder. He re-established contact with the Home Office on 10th September 2015 and attempted to regularise his stay in the UK. Representations were made on his behalf that he should be allowed to remain in the UK, based upon his private and family life. He had by then been in a relationship with a new partner with whom he had two children. That relationship broke down.

7. The Secretary of State refused the human rights claim on 7th February 2018. It was accepted that the appellant has a genuine and subsisting parental relationship with his daughter born in 2004 and his son born in 2009, and it was accepted that the children are British citizens.

8. It was accepted that it would be unduly harsh for the children to live in China with the appellant. They live with their mother (the appellant's former partner). It was not accepted that it would be unduly harsh for the children to remain in the UK if the appellant was deported.

9. At the FtT hearing the judge noted that the appellant's children were aged 14 and 9 at the date of hearing. The judge noted [2] that the basis of the appeal was that it would not be proportionate under Article 8 of the 1950 European Convention for the appellant's children to remain in the UK without him.

10. The judge found that the appellant had absconded for a very significant period and that he did not live with his children, but saw them once a week and from time to time they stayed with him. The appellant had taken his children on holidays and also took them to school parents' evenings. He provided some finance for their maintenance and at paragraph 15 it was found that the appellant "and the children enjoy lively, social media exchanges."

11. The judge noted that there was no independent social worker's report, as the children's mother would not consent to this. The judge noted and accepted that the mother's present partner had sent text messages to the

appellant, threatening to tell his children about his criminal conviction, about which they knew nothing.

12. The judge at paragraph [18] was "perturbed about the children's situation." The judge found at paragraph [26] "that it would be extremely damaging for the children to be abruptly deprived of contact with their father. The children have got used to having their father. There is the added difficulty of their father's past and how that is dealt with."

13. The judge also found at [26] that "this appeal falls in favour of the appellant's children rather than the public interest in seeing foreign criminals deported." At paragraph 27 the judge found "it is shown that removal of the appellant would be disproportionate to the best interests of the children. That is the only aspect that has exercised the Tribunal." The appeal was therefore allowed with reference to Article 8 of the 1950 Convention.

14. The respondent then sought permission to appeal. Firstly, it was contended the judge had made a material misdirection in law. It was accepted that the judge had summarised the relevant Immigration Rules in relation to deportation, but had not engaged with them or made a finding. It was submitted that the Immigration Rules remain central to the assessment of whether deportation is proportionate and the judge had failed to consider whether deportation would be unduly harsh which was the appropriate test.

15. It was contended that the judge had adopted a free-standing Article 8 assessment rather than considering whether the exception to deportation in section 117C (5) applied, or the similar exception in paragraph 399A of the Immigration Rules.

16. The second Ground of Appeal claimed that the judge had given inadequate reasons for the conclusion reached. It was submitted that the findings made by the judge revealed no more than the usual outcome of deportation cases, and the judge had identified nothing which could be said to amount to unduly harsh or very compelling. Reliance was placed upon KO (Nigeria) and Others [2018] UKSC 53.

17. It was submitted that the judge had treated the best interests of the children as the primary consideration rather than a primary consideration and had not considered the best interests in the context of deportation. It was contended that the judge had not attached weight to the fact that the Claimant had absconded between 2001 – 2015 and remained in the UK without leave since 26th July 1996, and had placed too much significance on the Claimant's rehabilitation and the fact that he did not represent a danger to the public.

18. Permission to appeal was granted on 18 December 2018 by FtT Judge S Smith in the following terms;

> "3. There is an arguable material error of law. The operative part of the judge's analysis arguably leapt prematurely into a free-standing Article 8 assessment, without referring to the applicable rules and statutory framework established by the Respondent and parliament respectively to govern the approach to the public interest in deportation matters. In doing so, the public interest in the deportation of foreign criminals was arguably understated. The judge arguably tainted his assessment of the children's best interests by focusing on the "largely irrelevant" question of when the children should be informed about their father's criminal past, rather than by considering that a certain amount of harshness is "due". Finally, the judge arguably did place too much on the Appellant's rehabilitation, at the expense of the public interest in the deportation of foreign criminals."

19. The appeal was then listed before the Upper Tribunal on 11 July 2019 when it was heard by Upper Tribunal Judge Rintoul and Deputy Upper Tribunal Judge Hall. For the reasons given in the attached decision, they found that the decision of the First-tier Tribunal involved the making of an error of law.

20. With reference to the first ground, the judge did make reference to the relevant exception to deportation in section 117C(5) of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act) and paragraph 399 of the Immigration Rules. The judge did not however engage with the relevant test. The issue to be decided by the judge was whether the Claimant's deportation would be unduly harsh on his children. The Secretary of State accepted that it would be unduly harsh for the children to live in China, and therefore the issue was whether it would be unduly harsh for the children to remain in the UK without the Claimant.

21. The judge did not follow the guidance in KO (Nigeria), which was published on 24th October 2018, after the FtT hearing on 4th September 2018, but before promulgation of the FtT decision on 16th November 2018. At paragraph 23 of KO (Nigeria) it is stated;

> "23. On the other hand the expression "unduly harsh" seems clearly intended to introduce a higher hurdle than that of "reasonableness" under section 117B(6), taking account of the public interest in the deportation of foreign criminals. Further the word "unduly" implies an element of comparison. It assumes that there is a "due" level of "harshness", that is a level which may be acceptable or justifiable in the relevant context. "Unduly" implies something going beyond that level. The relevant context is that set by section 117C(1), that is the public interest in the deportation of foreign criminals. One is looking for a degree of harshness going beyond what would necessarily be involved for any child faced with the deportation of a parent."

22. There is no proper indication in the FtT decision that the judge has approached the appeal by considering the high threshold of whether it would be unduly harsh, and has failed to make findings upon the appropriate test.

23. With reference to the second ground there is an inadequacy of reasoning. Guidance on adequacy of reasoning is contained in Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC) the headnote of which is set out below;

> "It is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case. This leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases. It is, however, necessary for judges to identify and resolve key conflicts in the evidence and explain in clear and brief terms their reasons, so that the parties can understand why they have won or lost."

24. In this appeal it was accepted that the children do not live with the appellant. The judge noted the absence of an independent social worker report and there was no evidence from the mother of the children.

25. The decision appears to be largely based upon the judge's concern that the mother's current partner may tell the children about the Claimant's previous conviction. It is unclear how the appellant's presence in the UK would make a difference to whether or not the disclosure is made.

26. It is unclear why at paragraph [26] the judge concludes that it would be extremely damaging for the children to be abruptly deprived of contact with their father. It is unclear why this would amount to the test of "unduly harsh" being satisfied.

27. At paragraph [27] the judge confirms that the removal of the appellant would be disproportionate to the best interests of the children, and that "is the only aspect that has exercised the Tribunal". The best interests of children are a primary consideration but not a paramount consideration and are not the only consideration. The conclusion reached by the judge at paragraph [26] is "that proportionality in this appeal falls in favour of the appellant's children rather than the public interest in seeing foreign criminals deported." There is no adequate reasoning as to why this is the case, which stems from the fact that the judge appears to have considered first and foremost, the best interests of the children, rather than considering the public interest in deportation of foreign criminals, and whether the deportation would be "unduly harsh."

28. The matter was then adjourned for further evidence and submissions. It then came before me sitting alone on 30 October 2019 for it to be re-made, taking into account the additional evidence produced. That is in the form of witness statements from the appellant, his estranged wife and a report from Professor Zeitlin, a psychiatrist. In addition, I heard evidence from the appellant who adopted his witness statement but was not cross-examined.

29. Mr McVeety submitted that limited weight could be attached to the report of Professor Zeitlin as he had considered only the documents put before him; he had not had an interview with either the appellant or the children.

While it was not doubted that the children were unaware of the appellant's conviction for manslaughter in which he had killed his former wife, that was a situation which had arisen owing to the actions of the appellant and his former wife. He submitted further that the consequences of the children learning of this, taken cumulatively with the other issues, were not shown by the expert report to be so serious such that the deportation of the appellant would be unduly harsh, relying on **PG (Jamaica) [2019] EWCA Civ 1213** at [39]. He submitted that whilst there would be changes in the children's situation in that the norms would be changed that was the effect of deportation. He submitted there must be something which elevates it beyond that which, he submitted, was not the case here. It was accepted that the appellant provides day-to-day guidance for the children and that the risk identified by Professor Zeitlin was theoretical.

30. Mr Jagadesham relied on his skeleton argument, submitting that there was an active and deeply involved relationship between the appellant and his children. He submitted it was important to note that both children, in particular the daughter, had messaged their father when encountering difficulties. He accepted that there was no direct contact between Professor Zeitlin and the children but this was due to the mother not even permitting social workers to get involved and that what I should be concerned with here was the best available evidence. It was accepted that the children will need to learn of what their father had done at some point and that Professor Zeitlin was of the opinion that the children would need him to be present. He submitted this is not a case where there was a commonplace emotional fall-out; this was not rewarding the actions of the parents but recognising the specifics of the situation. He submitted that there would be a disclosure to the children if the father was deported and whilst in hindsight it might have been better if they had been told, this was not so. He submitted that this was a delicate situation made all the more complex by the attitude of the new partner as shown by his texts.

31. The appellant asked to address me which I permitted. He explained that he had been involved with the daily running of his children's lives and they had lived with him until four years earlier. The birth of the daughter had been difficult and the mother had been ill and they had formed a very close bond. He explained his daughter was timid, had not many friends and relied on him to a significant degree.

The Law

32. Section 117C provides as follows:-

> "**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 subsections (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."

33. The Immigration Rules provide:

399. This paragraph applies where paragraph 398 (b) or (c) applies if –

(a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK, and

(i) the child is a British Citizen; or

(ii) the child has lived in the UK continuously for at least the 7 years immediately preceding the date of the immigration decision; and in either case

(a) it would be unduly harsh for the child to live in the country to which the person is to be deported; and

(b) it would be unduly harsh for the child to remain in the UK without the person who is to be deported; or

(b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen or settled in the UK, and

(i) the relationship was formed at a time when the person (deportee) was in the UK lawfully and their immigration status was not precarious; and

(ii) it would be unduly harsh for that partner to live in the country to which the person is to be deported, because of compelling circumstances over and above those described in paragraph EX.2. of Appendix FM; and

(iii) it would be unduly harsh for that partner to remain in the UK without the person who is to be deported.

34. In **KO (Nigeria) v SSHD [2018] UKSC 53** the Supreme Court held at paragraph 23:-

> "23. On the other hand the expression "unduly harsh" seems clearly intended to introduce a higher hurdle than that of "reasonableness" under section 117B(6), taking account of the public interest in the deportation of foreign criminals. Further the word "unduly" implies an element of comparison. It assumes that there is a "due" level of "harshness", that is a level which may be acceptable or justifiable in the relevant context. "Unduly" implies something going beyond that level. The relevant context is that set by section 117C(1), that is the public interest in the deportation of foreign criminals. One is looking for a degree of harshness going beyond what would necessarily be involved for any child faced with the deportation of a parent. What it does not require in my view (and subject to the discussion of the cases in the next section) is a balancing of relative levels of severity of the parent's offence, other than is inherent in the distinction drawn by the section itself by reference to length of sentence. Nor (contrary to the view of the Court of Appeal in *IT (Jamaica) v Secretary of State for the Home Department* [2016] EWCA Civ 932, [2017] 1 WLR 240, paras 55, 64) can it be equated with a requirement to show "very compelling reasons". That would be in effect to replicate the additional test applied by section 117C(6) with respect to sentences of four years or more."

In addition, at [27] the Supreme Court approved guidance as to the meaning of unduly harsh given in **MK (Sierra Leone) v SSHD [2015] UKUT 223** saying this:-

> 27. Authoritative guidance as to the meaning of "unduly harsh" in this context was given by the Upper Tribunal (McCloskey J President and UT Judge Perkins) in *MK (Sierra Leone) v Secretary of State for the Home Department* [2015] UKUT 223 (IAC), [2015] INLR 563, para 46, a decision given on 15 April 2015. They referred to the "evaluative assessment" required of the tribunal:
>
> > "By way of self-direction, we are mindful that 'unduly harsh' does not equate with uncomfortable, inconvenient, undesirable or merely difficult. Rather, it poses a considerably more elevated threshold. 'Harsh' in this context, denotes something severe, or bleak. It is the antithesis of pleasant or comfortable. Furthermore, the addition of the adverb 'unduly' raises an already elevated standard still higher."

On the facts of that particular case, the Upper Tribunal held that the test was satisfied:

> "Approached in this way, we have no hesitation in concluding that it would be unduly harsh for either of the two seven year old British citizen children concerned to be abruptly uprooted from their United Kingdom life setting and lifestyle and exiled to this struggling, impoverished and plague stricken west African state. No reasonable or right thinking person would consider this anything less that cruel."

This view was based simply on the wording of the subsection, and did not apparently depend on any view of the relative severity of the particular offence. I do not understand the conclusion on the facts of that case to be controversial.

35. Commenting on **KO (Nigeria)**, the Upper Tribunal in **RA (Iraq)** said this:-

> *(1) In KO (Nigeria) & Others v Secretary of State for the Home Department [2018] UKSC 53, the approval by the Supreme Court of the test of "unduly harsh" in section 117C(5) of the Nationality, Immigration and Asylum Act 2002, formulated by the Upper Tribunal in MK (Sierra Leone) v Secretary of State for the Home Department [2015] UKUT 223 (IAC), does not mean that the test includes the way in which the Upper Tribunal applied its formulation to the facts of the case before it.*
>
> *(2) The way in which a court or tribunal should approach section 117C remains as set out in the judgment of Jackson LJ in NA (Pakistan) & Another v Secretary of State [2016] EWCA Civ 662.*
>
> *(3) Section 117C(6) applies to both categories of foreign criminals described by Lord Carnwath in paragraph 20 of KO (Nigeria); namely, those who have not been sentenced to imprisonment of 4 years or more, and those who have. Determining the seriousness of the particular offence will normally be by reference to the length of sentence imposed and what the sentencing judge had to say about seriousness and mitigation; but the ultimate decision is for the court or tribunal deciding the deportation case.*
>
> *(4) Rehabilitation will not ordinarily bear material weight in favour of a foreign criminal.*

36. It is also evident from the decision of the Upper Tribunal in that case that if Exception 1 or 2 is not met, then it would be necessary to go on to consider whether there are nonetheless very compelling circumstances over and above those described in Exceptions 1 and 2.

37. In **SSHD v PG (Jamaica) [2019] EWCA Civ 1213** the Court of Appeal described the issue as this:-

> 38. The decision in *KO (Nigeria)* requires this court to adopt an approach which differs from that taken by Judge Griffith and Judge Finch. In the circumstances of this appeal, I do not think it necessary to refer to decisions predating *KO (Nigeria)*, because it is no longer appropriate, when considering section 117C(5) of the 2002 Act, to balance the severity of the consequences for SAT and the children of PG's deportation against the seriousness of his offending. The issue is whether there was evidence on which it was properly open to Judge Griffith to find that deportation of PG would result for SAT and/or the children in a degree of harshness going beyond what would necessarily be involved for any partner or child of a foreign criminal facing deportation.

> 39. Formulating the issue in that way, there is in my view only one answer to the question. I recognise of course the human realities of the situation, and I do not doubt that SAT and the three children will suffer great distress if PG is deported. Nor do I doubt that their lives will in a number of ways be made more difficult than they are at present. But those, sadly, are the likely consequences of the deportation of any foreign criminal who has a genuine and subsisting relationship with a partner and/or children in this country. I accept Mr Lewis's submission that if PG is deported, the effect on SAT and/or their three children will not go beyond the degree of harshness which is necessarily involved for the partner or child of a foreign criminal who is deported. That is so, notwithstanding that the passage of time has provided an opportunity for the family ties between PG, SAT and their three children to become stronger than they were at an earlier stage. Although no detail was provided to this court of the circumstances of what I have referred to as the knife incident, there seems no reason to doubt that it was both a comfort and an advantage for SAT and the children, in particular R, that PG was available to intervene when his son was a victim of crime. I agree, however, with Mr Lewis's submission that the knife incident, serious though it may have been, cannot of itself elevate this case above the norm. Many parents of teenage children are confronted with difficulties and upsetting events of one sort or another, and have to face one or more of their children going through "a difficult period" for one reason or another, and the fact that a parent who is a foreign criminal will no longer be in a position to assist in such circumstances cannot of itself mean that the effects of his deportation are unduly harsh for his partner and/or children. Nor can the difficulties which SAT will inevitably face, increased as they are by her laudable ongoing efforts to further her education and so to improve her earning capacity, elevate the case above the commonplace so far as the effects of PG's deportation on her are concerned. In this regard, I think it significant that Judge Griffith at paragraph 67 of her judgment referred to the "emotional and behavioural fallout" with which SAT would have to deal: a phrase which, to my mind, accurately summarises the effect on SAT of PG's deportation, but at the same time reflects its commonplace nature.

38. I accept, and it is not in dispute, that there is a genuine and subsisting relationship between the appellant and his children

39. The appellant spoke movingly about his relationship with his children, in particular with his daughter. I have no doubt that although they no longer live together there is a very close, emotional bond between them and that his daughter places a significant degree of trust in him as shown by what she wishes to explain to him. I am satisfied also that the relationship is close enough for the son to be demonstrating to his father in WhatsApp messages how he can now write in Mandarin.

40. While I accept that the appellant does no longer live with his children, the relationship is still very close and that both children look to him for guidance.

41. There is an unusual context to this case. As noted, the appellant was previously convicted of the manslaughter of his then wife some years ago. That was well before the children were born and they are unaware of his conviction. That is because the appellant and his second wife chose not to tell the children of this or, it appears, the deportation proceedings or the fact that the appellant may be compelled to leave the United Kingdom. It is not for me to judge whether that was the correct course of action; it is simply the factual background to the case.

42. Given the ages of the children now, it is inevitable that they would wish to ask questions as to why their father is being required to leave the United Kingdom. Again, what the appellant and his wife (and for that matter her new partner) tell the children is a matter for them.

43. I accept from Professor Zeitlin's report that there are studies regarding the trauma which occurs to children when they learn that one parent has killed the other. That would inevitably be a traumatic episode for a child in that position. But that is not the situation here, as Professor Zeitlin recognises. Further, as Professor Zeitlin has not spoken to any of the people involved, any observations he can make are generic and not related to the specific circumstances of those involved.

44. In this context, and whilst I do not dispute Professor Zeitlin's expertise, I conclude that his report is (and this is not a criticism of him, merely an observation) in the absence of any direct contact or interview with those involved, of limited value. It does not, for example, identify any particular vulnerabilities within the children or that they have any particular emotional needs over and above what would be normal in the circumstances of children who are living separately from their father, albeit having regular contact.

45. Nor is the timing of the revelation to the children of the appellant's conviction necessarily going to occur after the appellant is deported. There appears to be no good reason why this could not be undertaken relatively quickly and the children prepared for their father's removal. In reality, there is insufficient evidence that the circumstances in this case will be so traumatic as to render the situation of the children unduly harsh. There is no reason why they would not be able to communicate with their father in China in the manner they do so, albeit that some messaging services make it difficult to exchange photographs from behind the firewall in place between China and the rest of the world. There does not appear to be any reason why they could not visit China with their mother or meet somewhere else outside the United Kingdom.

46. It appears that most of the harm that it is argued will occur to the children will flow from the fact that the appellant and his former partner have simply not told the children the reality of the situation. One might have thought that they would have given some consideration to the fact that the children will need to find out someday what has happened and

consequently they will learn that their parents, the most important adults in their life, have concealed important matters from them.

47. Turning back to **PG (Jamaica)** I have no doubt that the children's lives will be more difficult than they are at present. There is, I consider, insufficient material to show that the consequences are such as to elevate this case above the norm and I accept that the appellant, will no longer be in a position to assist the former partner in looking after the children. There will inevitably in this case be an emotional and possibly also a behavioural fall-out but there is nothing in this case which although it is unusual in the form of the concealment that has gone on, such as to make the effects on the children of deportation unduly harsh. Accordingly, I am not satisfied that the appellant meets the requirements of the Immigration Rules such that he falls within Exception 2.

48. I must therefore go on to continue whether despite the fact that the exception is not met, there are nonetheless very compelling circumstances such that the appellant's deportation is disproportionate.

49. I bear in mind that in this case the appellant's conviction was a long time ago but equally he has never had leave to be here. His age is a matter which I take into account along with the other factors set out in Section 117C and 117B. I have no doubt that the appellant is able to speak English and would be able to be financially independent. These, however, are neutral matters. His conviction was inevitably serious resulting in a three year sentence upon a guilty plea.

50. I have considered the extent to which the appellant has come close to meeting exceptions 1 and 2. He is not in a relationship with a partner. While he does have a relationship with his children, he does not meet that exception and does not live with them.

51. There is insufficient evidence to show that the appellant would be unable to support himself in China or to obtain employment there even though I accept he has not lived there for many years. Given the changes which have taken place in that country it may be difficult for him to adapt but equally he has skills obtained in the United Kingdom including clear fluency in English. I do not consider that in the circumstances of this case, given the appellant's immigration status, that any blame attaches to the respondent for not deporting the appellant.

52. Taking all of these factors into account, and viewing the evidence as a whole I conclude that there are not very compelling circumstances such that deportation would be disproportionate. Accordingly, for these reasons, I dismiss the appeal on all grounds.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside.

2. I remake the appeal by dismissing it on all grounds.

No anonymity direction is made.

Signed Date 29 November 2019

Upper Tribunal Judge Rintoul