Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/32179/2014

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 24 May 2016	**On 1 June 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

JKAR
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms Ma of Counsel
For the Respondent: Mr Whitwell a Home Office Presenting Officer

DECISION AND REASONS

Background

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant or any of his family members. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings. I do so in order to preserve the anonymity of the Appellant's oldest child (who I will

refer to as J) who is now 4 years and 8 months old and whose health and consequent education issues form the heart of this case.

2. The Respondent refused the Appellant's application for leave to remain both within the Immigration Rules and pursuant to the 1950 European Convention on Human Rights (ECHR) on 3 June 2014. His appeal against that decision was allowed by First-tier Tribunal Judge Gillespie ("the Judge") on Article 8 of the ECHR grounds only following a hearing on 7 June 2015. There was no cross appeal in relation to his decision under the Immigration Rules which stands. Following a hearing on 7 March 2016 I determined that there was a material error of law for the following reasons.

Error of law hearing

3. The Judge entirely failed to engage with the question of what provision could be made for J in Ghana. He has made no reference at all to the 199 bundle of background of evidence or Country of Origin Information Report produced by the Appellant. This largely, but not entirely, relates to Ghana and refers to stigmatisation and discrimination against disabled people and children with efforts to reduce this. The Judge ignored the evidence contained in the refusal letter. The fact that the Appellant's counsel could not find it is not a reason the Judge did not consider it. This evidence is a crucial part of the findings that needed to be made as explained in Akhalu (health claim: ECHR Article 8) [2013] UKUT 00400 (IAC). The phrase "My conclusion after examination of all relevant circumstances known to me" is simply not good enough. The failure to engage with all this evidence and explain to the Respondent why he rejected her position was a material error of law.

4. In failing to engage with the question of what provision could be made for J in Ghana, the Judge could even begin to address the question of the effect of removal on J's condition. Rosaleen Brown is a Social Worker who purports to comment on this. Nowhere in her CV is there any indication she has any expertise on the provision of services in Ghana. That is not a criticism of her, merely a reflection of her CV. Her report is not mentioned by the Judge. Nor do any of the authors of the professional reports comment on the question of the effect of removal on J's condition. They all identify the extensive support he has had and that he will need extensive support in the future but none say what is likely to happen should he be removed. The failure to engage with this issue was a material error of law.

5. J is plainly in need of extensive support. It is inevitable this is expensive. It is inevitable the future cost of the extensive support will be a financial impact on the public purse. That includes the cost of Special Educational Needs provision. There has been no assessment of this at all. The observation [26] "that this might place increased demands on the public purse" was wholly inadequate and is a material error of law.

6. I was therefore satisfied that the Judge made a material error of law. I set the decision aside. I preserved the findings extracted from the Judges determination [14, 20, 23, 24, and 25] only which I set out below. I did not preserve the findings from the Judges determination at [26].

The Judge's preserved findings

7. The Judge found as follows;

> [14] "There is perhaps a degree of exaggeration in the expression of the Appellant of the various fears, including fear of discrimination in Ghana for disabled children."
>
> [20] "… the Appellant might face difficulties on return to Ghana, I would not hold those to be very significant obstacles. He has degree qualifications from Ghana. His family and his wife originate from Ghana. He still has family members in Ghana, even though he might be estranged from them. His wife is educated to a high level. They should be able to reintegrate without very significant obstacles. They have undoubted difficulty to face because of the condition of" J "but I do not consider this to be an obstacle to the Appellant's reintegration in Ghana."
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> The Judge then moved on to consider Article 8 outside the Immigration Rules and regarding the question of proportionality found;
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> [23] "…there are significant considerations of enforcement and deterrence to apply. The parents have wilfully overstayed in the United Kingdom. The Appellant in particular has engaged in protracted defiance of immigration control." His wife "is not so egregious in her conduct, she has been attempting to remain within the law throughout, making applications, albeit unsuccessfully, in apparently timely manner or otherwise awaiting the result, in some times considerably delayed, of applications by her or by the Appellant on which she was dependent…In the real world, at least as far as the minor children other than" J "the children would return to Ghana, at an age when they can reasonably be expected to adapt to new circumstances, with their parents, who can reasonably be expected to reintegrate and support themselves."
>
> [24] "The medical evidence shows that" J's "condition is most complex. He has been born with physical deformities, including to the hips, the feet and, to a lesser extent, the knees, that affect his mobility. He was born with deformities to his hand and umbilicus which required surgery to correct; there remains a degree of disability in the hand despite the surgery. He has had opthalmalogical surgery and requires further such attention. He has a distinctive facial appearance, and bears hypopigmentation to his skin (albeit

> apparently in places that might normally be covered with clothing), likely to attract a degree of unwelcome attention and discrimination, especially in a superstitious population. Although I think the fear of discrimination to be somewhat overstated, I do accept that the Appellant has already encountered discriminatory remarks from his brother, concerning his son and might well expect a degree of intolerance and rejection for his son and his family generally because of cultural superstitions."
>
> [25] "Apart from the physical manifestations of his condition," J "has significantly failed to thrive in development. His condition is undiagnosed. It is attributed to some genetic fault that is unidentified. It is described with the generalisation "global developmental delay". He is reported, by paediatricians, social workers, advisory teachers and other therapists to be likely to require specialist, one to one support at present and into puberty. In addition, the child has medical issues including recurrent bronchitis, asthma and susceptibility to anaemia and sickle-cell anaemia. So unknown is the cause of his many difficulties, that" J "is enrolled in a research study, "Deciphering Developmental Disorders". At the date of hearing he was being prepared for further exploratory surgery relating apparently to his digestion. He attends regularly on physiotherapists at the Child Development Centre; on orthopaedic specialists at Great Ormond Street Hospital; on speech and language therapists at Putnoe Clinic and the Child Development Centre; and at a respiratory chest clinic at Bedford hospital."

Appellant's position

8. The Appellant arrived here with a six-month Visa on 6 July 1999. His Visa expired on 28 December 1999 and he has been here unlawfully since then. He is now 42 years old (born on 18 January 1974). His wife who is now 33 years old (born 19 April 1983) arrived here on 28 August 2002 as a student with a Visa which was extended until 17 June 2008. Her EEA residence application was refused on 23 February 2010. Their oldest child who was born on 7 January 2008 is now 8 years old but was 6 when the application was made for permission to stay on 25 March 2014. J, around who this case principally revolves, is now 4 years and 8 months old having been born on 1 September 2011. The youngest child is a daughter who was born here on 17 July 2013 and is nearly 3 years old.

9. They have made friends here and the United Kingdom is the only place the children have ever lived. J has very significant health problems and would be unable to access the specialist support or education he requires. They have no family in Ghana but have many friends and family here. The eldest child is in full time education which he enjoys very much and he has lots of friends and believes himself to be British. Some up-to-date school certificates were produced that show he enjoys school.

10. There are only 6 speech and language therapists in Ghana. J has a very complex condition. There is a lack of medical facilities. He would face discrimination and bullying and would not have access to the medication and support he needs.

11. Amanda Rizzo, interim headteacher at St John's Special School and College wrote (6 April 2016) that J has attended there on a part-time basis since May 2015. It is a school for children with severe and profound and multiple learning difficulties specialising in communication and interaction. He is in a class of 9 pupils with 6 staff who are highly trained in specialist teaching strategies. There are school nurses on site and regular access to speech and language therapists, occupational therapists, and physiotherapists. He is being referred to a dietician. It is more likely that this level of facilities is available here than in Ghana. He has global developmental delay. He has flexion deformities of 2 of his fingers, bilateral talipes valgus, recurrent chest of the infections, and gastro-oesophageal reflux. He has severe asthma which may well be exacerbated by a hotter and dustier environment. He has a nebuliser at home which requires a secure electricity supply. He has low immunity and is susceptible to recurrent infections and may be at higher risk of tropical diseases such as malaria. He has visual impairment so can only focus on objects close to him. He has glue ear which affects his hearing. Due to his severe reflux he needs one-to-one support at all meal times to ensure his safety. He is unsteady on his feet and can only walk short distances. He can focus his attention on an adult led task for up to 2 minutes. He is non-verbal. He has no sense of danger. He requires constant supervision to ensure his safety. He needs familiar environments and clear routines and structure. He cannot cope with a change of environment. He becomes very distressed by loud noises and struggles to remain seated for more than 3 minutes. A long journey would be extremely challenging. He would be unable to remain seated when a plane takes off or lands and is likely to be extremely distressed by the noise and crowd as well as the change in his routine. It would be very difficult to put anything in place to ameliorate the distressing experiences during change and situations he does recognise and feel familiar with. He is very resistant to having his inhaler which could put him at risk on a long flight. His reflux is also likely to be a significant issue on a long flight. The school received £19,000 per year to support all the costs relating to his needs.

12. The up-to-date medical report and Statement of Special Educational Needs does not add to the summary provided above.

13. Salome Francois, the Executive Director of the New Horizon Special School in Ghana emailed (17 May 2016) that it is a non-residential day school and does not have the facilities to cater for anyone with J's condition.

Respondent's position

14. The whole family would be removed together. The Appellant has been here unlawfully throughout almost his entire time and spent 25 years living in Ghana

where he has social and cultural connections and understands the language. His wife spent the majority of her life in Ghana and is aware of the customs culture and language of the country.

15. Education, health care, and speech and language services are available in Ghana, the later through a non profit making organisation. There are 5 active speech and language therapists in Accra and one in Kumasi. More specialist training is required for autism and in speech and language therapy. J is not British.

16. The private life developed here unlawfully carries little weight.

17. At the date of application the oldest child had not lived here for 7 years and it is reasonable to expect him to leave. Even though he has now been here more than 7 years it is still reasonable to require him to leave.

Background evidence regarding Ghana

18. Sophie Morgan reported (28 July 2015) on the problems facing people with disabilities in Ghana which does not materially differ from the information set out below.

19. The 2010 United States State Department report identified that the constitution provides for free compulsory and universal basic education for all children from kindergarten through junior high school. Parents are required to purchase uniforms and writing material. The 2015 report noted that the government did not effectively enforce the antidiscrimination law and people with mental and physical disabilities including children were frequently subjected to abuse and intolerance. Children with disabilities who lived at home were sometimes tied to trees or under market stalls and caned regularly and some were reportedly killed by their families. Thousands of persons with mental disabilities including children as young as 7 were sent to spiritual healing centres known as prayer camps where mental illness was often considered a demonic affliction.

20. Support for the Dzorwulu Special School from a bank was noted (2 February 2016). A report from Teachers Deyond Borders noted that the Castle Road Special School in Accra provided an education for children with severe learning difficulties where all the students live in the hospital ward and few have much contact with their families. They were the recipients of educational materials and items from a non-governmental organisation and received stationary, wheelchairs, mattresses, detergents, beverages, and biscuits.

21. The United Nations Human Rights Council reported (2 April 2008) that there are many children of school age who do not attend school either as a result of the unavailability of schools within easy reach or as a result of the parent's inability to meet the extra cost.

22. The International Organisation for Migration noted (7 April 2010) that Ghana has 1,433 state owned hospitals and other medical institutions, and 1,299 private and quasi government facilities. Access to health services in geographical and financial terms continues to be a major hurdle for a large part of the population.

23. UNICEF reported (undated) that there are efforts to eliminate violent discipline in schools. They further noted that Ghana has been a role model for many African countries in the provision of free basic education but the quality of education can be improved.

24. Open Democracy (10 October 2014) reported that in Ghana it is widely believed that mental disabilities stem from being cursed or possessed by demons.

25. The Social Work and Society International Online Journal (2013) reported that there were prayer camps and a stigmatisation of mental illness that adversely affects patients. There are historical cultural and symbolic practices and a lack of adequate mental health resources and money.

26. Human Rights Watch (2 October 2012) reported that people with mental disabilities suffer severe abuse in psychiatric institutions and spiritual healing centres. In the community people with mental disabilities face stigma and discrimination and often lack adequate shelter food and healthcare. As part of the healing process people with mental disabilities in these camps, including children under the age of 10, are routinely forced to fast for weeks usually starting with 36 hours of so-called dry fasting and denied even water.

27. It is noted in an article Who is Disabled in Ghana (28 May 2012) that there are no support networks for parents of disabled children. Neither are there any other social interventions to help parents cope with the onerous burden of looking after their disabled child. Family friends and neighbours who see a disabled baby are more likely to pass negative and wicked comments about the baby than compliments or support.

28. It was reported by Voluntary Service Overseas (undated) that it is estimated that 10% of the population in Ghana is living with a disability and yet despite being such a large minority many continue to feel discrimination and alienation due to enduring stigma. People living with disabilities find it harder to get education and employment. One of their workers noted the lack of access to the basic support children need such as wheelchairs, crutches, hearing aids, and learning support.

29. A report was produced from Kickin-Stigma-Ass regarding their work in Ghana as volunteers and their efforts to improve the support for those with disabilities. The difficulties in finding a job were noted in an Internet article (19 September 2013).

Discussion

30. There is no Immigration Rule appeal before me given the lack of a cross appeal as referred to above [2]. Ms Ma conceded that paragraph 276ADE of the Immigration Rules was not met in any event as the oldest child had not been here for 7 years at the date of the application. She and Mr Whitwell both submitted that I should not "visit the sin of the parent on the child".

31. There is a vast body of jurisprudence which assists in determining the issues in this case which I will summarise below at the various points they arise within my consideration and determination of the facts.

32. Mr Whitwell conceded that, because of J, compelling circumstances exist such as to mean that I could consider article 8, and also that the first three Razgar [2004] UKHL 27 questions were met in the affirmative.

33. I therefore have to ask whether the interference in the right to respect for their private and family life is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

34. I see no possible argument for saying that national security, public safety, or the protection of health or morals or the rights and freedoms of others have any relevance in this case.

35. The protection of immigration control is a legitimate aim and can be said to prevent crime given the criminal offences that are sometimes involved in beaching immigration control and the consistent message that the Respondent sends in that regard.

36. There will clearly be an adverse impact on the economy given the cost of medical treatment and education for J and of the cost of education for his siblings. If the cost was negligible this would not be a legitimate aim at all. However, Ms Ma conceded that it is not negligible. That must be correct as the cost of J's Special Educational Needs provision alone is currently £19,000 per year, and his older sibling attends school and his younger sibling will in due course. Neither representative disputed my stated understanding that the Pupil Premium, which is the notional cost of each child's education at a State School, is about £6,000 per year. J also has extensive health needs and consequent costs. Over the period J is a minor, as pointed out by Mr Whitwell, the Special Educational Needs provision of J alone will be in excess of £200,000. The cost of educating his siblings will be well in excess of £100,000. Given J's complex health needs, it is plainly impossible to quantify what the cost of ongoing treatment would be. By any account the cost of this family staying here will be very significant and far in excess of anything the adults would be able to cover through their contribution via taxation. I am

satisfied therefore that it is necessary to remove the family for the economic well being of the country.

37. I therefore turn to the question of whether such interference is proportionate to the legitimate aim to be achieved? I bear in mind the further Razgar guidance that while it is possible that a decision to remove an alien will breach article 8 in its aspect of "physical and moral integrity", a very high threshold of anticipated harm will have to be shown. The test is not to compare the standard of treatment between countries.

38. In relation to proportionality, which is really what is at the heart of this case, the ultimate question for me is whether the refusal of leave to remain in circumstances where the life of the family could not reasonably be expected to be enjoyed elsewhere, taking full account of all considerations weighing in favour of the refusal, prejudiced the family life of the claimant in a manner sufficiently serious to amount to a breach of the fundamental right protected by Article 8 (Huang and Kashmiri v SSHD [2007] UKHL 11).

39. I must not leave out of account a material consideration of central importance to the individual concerned, but recognise that the countervailing public interest in removal will outweigh the consequences for the health of the claimant because of a disparity of health care facilities in all but a very few rare cases. When weighed against the public interest in ensuring that the limited resources of this country's health service are used to the best effect for the benefit of those for whom they are intended, the consequences of removal for the health of a claimant who would not be able to access equivalent health care in their country of nationality as was available in this country consequences do not weigh heavily in the claimant's favour but speak cogently in support of the public interests in removal (Akhalu).

40. I bear in mind that

> "the absence or inadequacy of medical treatment, even life-preserving treatment, in the country of return, cannot be relied on at all as a factor engaging article 8: if that is all there is, the claim must fail. Secondly, where article 8 is engaged by other factors, the fact that the claimant is receiving medical treatment in this country which may not be available in the country of return may be a factor in the proportionality exercise; but that factor cannot be treated as by itself giving rise to a breach since that would contravene the "no obligation to treat" principle" (GS (India) & others v SSHD [2015] EWCA Civ 40 at [111]).

41. I do of course consider the children's best interest as my primary but not paramount consideration, and must consider whether it is reasonable for them to live elsewhere, and also their ability to adapt (ZH (Tanzania) v SSHD [2011] UKSC 4 and EV (Philippines) v SSHD [2014] EWCA Civ 874). I bear in mind they are not British (Zoubmas v SSHD [2013] UKSC 74), that all the family are victims

of the Appellant's behaviour (Beoku-Betts v SSHD [2008] UKHL 39), and that the maintenance of effective immigration control must not form part of the best interests of the child consideration (MK (best interests of child) India [2011] UKUT 00475 (IAC)).

42. I bear in mind that I must consider past, present and likely future circumstances (MM (Article 8 - family life - dependency) Zambia [2007] UKAIT 00040) and AP (India) v SSHD [2015] EWCA Civ 89), article 8's limited utility in private life cases that are far removed from the protection of an individual's moral and physical integrity (Nasim (Article 8) [2014] UKUT 00025 (IAC)), and the limited weight to be attached to such rights where it has been acquired while status has been precarious (e.g. Rajendran (s117B – family life) [2016] UKUT 00138 (IAC)). For a non-citizen child, education and time spent in the United Kingdom are not a trump card and as long as there has been some consideration of the interests of the child, the family will only rarely be permitted to remain in the United Kingdom on the basis of such interests (R (app Osawemwenze) v SSHD [2014] EWHC 1564 (Admin)). I bear in mind not just the evidence relating to any short-term disruption of current schooling that will be caused by any removal but also to that relating to the impact on a child's educational development, progress and opportunities in the broader sense (MK).

43. A useful summary is found in Azimi-Moayed and others (decisions affecting children; onward appeals) [2013] UKUT 00197(IAC):

> (1) i) As a starting point it is in the best interests of children to be with both their parents. If both parents are being removed from the United Kingdom then the starting point suggests that so should dependent children who form part of their household unless there are reasons to the contrary.
> ii) It is generally in the interests of children to have both stability and continuity of social and educational provision and the benefit of growing up in the cultural norms of the society to which they belong.
> iii) Lengthy residence in a country other than the state of origin can lead to development of social cultural and educational ties that it would be inappropriate to disrupt, in the absence of compelling reason to the contrary. What amounts to lengthy residence is not clear cut but past and present policies have identified 7 years as a relevant period.
> iv) Apart from the terms of published policies and rules, 7 years from age 4 is likely to be more significant to a child that the first 7 years of life. Very young children are focussed on their parents rather than their peers and are adaptable.
> v) Short periods of residence, particularly ones without leave or the reasonable expectation of leave to enter or remain, while claims are promptly considered, are unlikely to give rise to private life deserving of respect in the absence of exceptional factors. In any event, protection of the economic well-being of society amply justifies removal in such cases.

44. Mr Whitwell conceded that it is the children's best interest to stay here but that is not the end of the matter. I agree with both of those submissions.

45. J has profound health problems. He is likely to get better treatment here than in Ghana. It has not been established through any of the medical evidence produced that the removal of the health care will be life threatening and it is clear that as there is no obligation to treat him, that factor alone would not breach article 8 (GS (India)).

46. The trigger factor that engages article 8 can only therefore be J's Special Educational Needs. This is a private life issue. It cannot be said to impact on his family life as the entire family would be removed together.

47. In the absence of J, this application stood no prospect of success and could readily be described as an abuse of the process for the following reasons. The whole family can return to Ghana where the adults could work and the children could live lawfully and go to school. There would be no cultural or language issues. The youngest child is an infant entirely reliant on her parents. At the date of application the oldest child was not yet 7. Even though he is now just over the age of 7 it is entirely reasonable to expect him to return to Ghana with his parents for them to resume their lives there and where he could be educated albeit perhaps not to the standard he would be here although it is plainly of a sufficiently high standard for his parents to be highly educated. He will inevitably want to stay here. He is a significant drain on the public purse given the cost of educating him. He will be able to adapt given his young age and with the help of his parents and will be brought up within the culture of both of his parents namely as a Ghanaian. He will be able to progress in his education albeit in a different system. He has a future in Ghana. The Appellant's appalling immigration history significantly undermines any private life rights he (but not the children) had. His wife's overstaying and refusal to leave also identified an adverse immigration history which enhanced the public interest of her removal. Their ability to speak English is a neutral factor. As they would be removed as a family, and given article 8's limited utility in private life cases that are far removed from the protection of an individual's moral and physical integrity (Nasim), it was unarguable that any article 8 rights relating to that would be breached by removing them.

48. However J is not absent. He is a much loved member of the family and his rights must be considered together with those of his family members and how they all impact on each other.

49. The journey to Ghana would, according to Ms Rizzo, be "extremely challenging". I accept that as I have no reason to doubt it or her opinion. The Respondent has a duty of care to ensure the family are able to return safely. It has not been established through the production of any evidence that they lack the resources or willingness to deal with the issues identified by Ms Rizzo for the period of the

journey of a few hours, which in the context of the length of time he would otherwise be here is infinitesimally brief.

50. If he is in Ghana, it is not reasonably likely he will be ill-treated by his parents or siblings. They love him. They will do the best they can for him. They will not tie him to a tree or cane him or kill him. There is no evidence they will send him to a spiritual healing centre. They could live near any of the Special Schools. He would plainly not get the Special Educational Needs provision he will get here. That does not mean he will get none. He will get the same as other Ghanaian children with his level of disability. The Special Schools may well rely on donors. That does not mean it is in some way less valuable or available to J and his family. Only 1 of the Special Schools say they would be unable to cope.

51. In relation to the additional factor of his health needs, there is plainly a functioning healthcare system in Ghana with many hospitals where treatment is available for a large number of conditions. It has not been established that they would be unable to provide such essential medical care as was necessary for J.

52. In relation to the additional factor of his older sibling as already stated, I am satisfied that he can be educated and housed in Ghana and speaks the language used in that country. There is plainly a functioning education system because his parents successfully went through it. It will clearly be better for him to stay here, and it will be disruptive it to his education for him to move, but there is no reason he would not be able to settle very quickly, make new friends, and adapt to a new education system. He is not yet 8 and is many years short of having reached a critical period of his education. He will of course have the benefit of his parents who will be able to settle him in and he will form part of the majority culture rather than being in a minority here. His cultural life will be enhanced by removing him to Ghana.

53. In relation to the additional factor of his younger sibling, it is in her best interests to be with her parents wherever they are. She can go through the normal education system and have such access to healthcare as all other Ghanaian children and be brought up as with her oldest brother within the majority culture.

54. In relation to the adults, whilst it would not be easy, the preserved finding was that there would not be very significant obstacles to them returning. I am satisfied that this is correct. They are both educated and they could work or run a business to pay for educational or medical support.

55. There were discriminatory comments made by his older sibling. Whilst there may be a degree of intolerance and rejection in Ghana, there is also a degree of intolerance and rejection here and discriminatory comments are made. Despite there being a degree of intolerance and rejection in Ghana, that does not mean that the whole of society or even a majority of it is intolerant or rejectionist.

56. I am satisfied that no one factor or combination of factors is sufficient to mean that the threshold has been crossed for J or any family member to be able to stay. In my judgement, despite the best interests of the children, the proportionality balancing exercise falls in favour of the Respondent and removing the entire family for all the reasons I have given.

Decision:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision.

I dismiss the appeal.

Signed:
Deputy Upper Tribunal Judge Saffer
29 May 2016