**Upper Tribunal**
**(Immigration and Asylum Chamber)** Appeal Number: PA/03931/2016

**THE IMMIGRATION ACTS**

| **Heard at Newport** | **Decision & Reasons Promulgated** |
|---|---|
| **On 16 October 2017** | **On 7 November 2017** |

**Before**

**UPPER TRIBUNAL JUDGE GRUBB**

**Between**

**M S**
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**
For the Appellant: Mr D Neale instructed by Migrant Legal Project
For the Respondent: Mr I Richards, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) I/we make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to contempt of court proceedings.

## Introduction

2. The appellant is a citizen of Ethiopia who was born on [ ] 1992. He arrived in the United Kingdom clandestinely in a lorry on 10 October 2015. He claimed asylum on 20 October 2015. An initial screening interview took place on 20 October 2015. This was followed by an asylum interview on 4 April 2016.

3. The basis of the appellant's claim was that his father had been a member of the opposition group, Ginbot 7 ("G7") and had been detained and killed by the Ethiopian authorities. The appellant claimed that he had also been a member and had been arrested, detained and ill-treated.

4. On 7 April 2016, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR.

5. The appellant appealed to the First-tier Tribunal. Judge L Murray dismissed the appellant's appeal on all grounds. She made an adverse credibility finding and did not accept that the appellant would be at risk on return to Ethiopia.

6. The appellant sought permission to appeal to the Upper Tribunal. On 29 March 2017, the First-tier Tribunal (Judge Ford) granted the appellant permission to appeal on the single ground that the judge had failed to consider whether the appellant's return to Ethiopia would breach Art 3 on the basis that there was a real risk that he would commit suicide.

7. The respondent filed a Rule 24 notice in response on 13 April 2017.

8. The appellant renewed his application for permission to appeal to the Upper Tribunal on the additional grounds upon which permission had been refused.

9. On 14 July 2017, the Upper Tribunal (UTJ) Perkins granted the appellant permission to appeal on those additional grounds.

## The Appellant's Grounds

10. In the renewed application, the appellant sets out four grounds of challenge to the judge's decision; in addition to the ground upon which the First-tier Tribunal gave permission.

11. First, it is contended that the judge misstated the appellant's evidence set out in his asylum interview when identifying an inconsistency in his account at para 28 of her determination in respect of the number of times he claimed to have been arrested or detained in Ethiopia. Mr Neale, who represented the appellant, placed reliance upon the verbatim transcription of the interview contained in the First-tier Tribunal bundle at A33 – 35.

12. Secondly, it is contended that the judge erred in law in relying upon discrepancies between the appellant's evidence given at his initial screening interview and his later account, in particular in his asylum interview. Mr Neale placed reliance upon the

Court of Appeal's decision in JA (Afghanistan) v SSHD [2014] EWCA Civ 450 that caution should be exercised in relying upon discrepancies when there was no independent recording of the screening interview to verify the accuracy of what was said.

13. Thirdly, it is contended that the judge failed properly to take into account in assessing discrepancies in the appellant's evidence that he had been diagnosed with PTSD by Dr Longman whose report and conclusion in this regard, the judge accepted.

14. Fourthly, it is contended that the judge failed to give adequate reasons, when rejecting the appellant's account that he had been involved with G7 in Ethiopia, that he had not been involved with G7 in the UK until after his asylum claim had been refused.

15. Finally, relying on the ground upon which permission was granted by the First-tier Tribunal, Mr Neale submitted that the judge had wholly failed to consider whether the appellant's return would breach Art 3 on the basis of a risk of suicide.

**Discussion**

16. The judge's reasons, set out under the heading "Findings and Reasons" at paras 18 – 37 of a determination, are detailed.

17. The judge had before her an expert report from Dr Longman relating to injuries that the appellant claimed he had suffered whilst in detention and in respect of his mental health. At paras 21 – 22, the judge dealt with the expert evidence concerning the appellant's injuries which she accepted were "highly consistent" with a deliberate assault and, on the basis of the evidence, that the injuries were "very unlikely to have occurred accidentally" and that there were "few other possible causes" rather than the cause of the trauma as described by the appellant. The judge said this:

> "21. The Appellant relies on an expert report drafted by Dr Tania Longman who has provided an opinion on the Appellant's scarring and in his mental health in accordance with the Istanbul Protocol, Dr Longman is a GP who since June 2011 has worked for Medical Justice, London. She assessed the Appellant on 6 October 2016. The Appellant reported to her that he was interrogated about his father's involvement in Ginbot 7 and was punched, slapped and kicked all over his body. He said that his left hand and right leg was stamped on and he was beaten all over his body with wooden sticks and with a rifle butt. She examined the scars on his body of which there were 32. She finds the legions that were attributed to being caused by wooden sticks to be highly consistent with their appearance. She considered alternative causes for these lesions but found that it was less likely that they would have arisen through the possible alternative cause of allergic reactions and were not consistent with self-harm. She considered the scars attributed to being kicked and stamped during beatings and found that they were highly consistent with their appearance. She found that they would also have been caused by some infective process but that

> that she would have expected to see a more indented appearance. The appearance of his fingernail was highly consistent with being stamped on and she concludes that it could also be caused by accidental injury. She considered the scars attributed to being cut with sharp portions of sticks and find that they are highly consistent with incision wounds caused by beatings with sharp instruments. She is aware of no skin conditions which could have caused these scars. Accidental injury is a feasible alternative. The scars attributed to being beaten by a rifle butt are found to be consistent with their appearance. She also finds the scars which have not been attributed to be consistent with beating and that the location is highly suggestive of injury inflicted deliberately and as a group are highly consistent with deliberate assault.
>
> 22. She finds that the overall pattern of lesions is highly consistent with the history he has given and that the pattern and number of scars is very unlikely to have occurred accidentally. This means therefore, according to the Istanbul Protocol that the lesion could have been caused by the trauma described and there are few other possible causes."

18. At para 23, the judge turned to Dr Longman's report in relation to the appellant's mental health and accepted that he had been diagnosed with PTSD. The judge said this:

> "23. She concludes also that a diagnosis of PTSD is compatible with his observed mental state. She finds that he is at moderately low risk of suicide. She considers whether is malingering. The Appellant did not know the origin of most scars and did not take the opportunity to attribute them being due to a specific part of his maltreatment which she considers to be entirely compatible with accounts of trauma. She finds that his presentation was more in line with a genuinely traumatised person."

19. Then, at para 24, the judge noted that Dr Longman's report provided "strong evidence to support his claim that he was injured in the manner described".

20. Further, the judge accepted that the appellant was a vulnerable witness for the purposes of the Joint Presidential Guidance Note No 2 of 2010, noting that:

> "With regard to the Appellant's ability to give evidence, she said that he showed great difficulty speaking of events in Ethiopia and because visibly agitated when these subjects arose. She states that these difficulties need to be borne in mind in further legal proceedings. I have taken account of these observations in assessing the Appellant's evidence."

21. Mr Neale placed reliance upon the judge's conclusions in paras 21–24 as the background to his submissions in relation to the specific grounds relied upon. In particular, to adopt his phrase, he submitted that it was a "finely balanced case" given the acceptance of the injuries and that the appellant suffered from PTSD. He did not, of course, accept that the judge had properly taken into account the appellant's vulnerability in assessing his evidence.

22. Turning then to the specific grounds; ground 1 relates to the judge's reliance upon a discrepancy or confusion in the appellant's evidence at questions 12 and 13 of his asylum interview. At para 28, the judge said this:

> "In his asylum interview his answer to question 12 if he had been arrested in Ethiopia is confused. He says 'frequently" they took him and put him Kebele prison and would harass and beat him. He said that first they caught him and beat him and put him in prison and the second time they caught him to confess the party his father belonged to. In answer to question 13 he said he had been arrested twice."

23. Mr Neale relied upon the verbatim transcription of the appellant's answers in respect of questions 12 and 13 at A34 – A35 of the appellant's bundle. He submitted that the appellant had not said that he had been "frequently" arrested or detained. His answer was more detailed as set out at A34. Mr Neale accepted that he had said: "yes, every time they would detain me, they would beat me in Kebele Prison, means every time." But, Mr Neale submitted that it was clear that in answer to question 12 he had said: "they arrested me one time, when they came again to arrest me I escaped."

24. Likewise, Mr Neale submitted that in question 13 the appellant had made clear that he had only been detained once and that the second time they had come for him he had escaped while they were taking him to prison. The answers were as follows:

> "I was detained once, the second time I escaped before I was taken to prison. I escaped while they were taking me to prison ... the first time they detained, put me in Kebele Prison and beat me for two days ... I was detained once. I was released on the second day, they could not find any evidence on me. ... I was not detained more than two times. It was once that I was detained."

25. Mr Richards submitted that the judge had not been referred to the verbatim transcription and Mr Neale (who did not represent the appellant in the First-tier Tribunal) was unable to assist on whether it had. Even if that were the case, I do not accept Mr Richard's submission that the judge could not be expected to have taken it into account. Whilst a judge cannot be expected to trawl through hundreds of pages of background material, to which a representative did not draw a judge's attention, that is not this case. Here, the relevant material including the appellant's witness statement, the expert report of Dr Longman and the transcription of the asylum interview are contained in 39 pages at the beginning of the appellant's bundle. The judge clearly made reference to the witness statement of the appellant in her determination and also the report of Dr Longman. The transcription of the asylum interview followed those documents. In my judgment, it casts a somewhat different complexion upon the appellant's answers as to the number of times he was arrested and/or detained. Whilst the appellant does say "every time they would detain me" at the outset of his answer, the confusion appears to be lifted, in short time, in both question 12 and 13 when he maintains that he was arrested and detained once and that he escaped the second time that they sought to arrest him. In my judgment, the judge's failure to grapple with the appellant's answers to questions 12 and 13 of his

asylum interview set out at A34 – A35 was an error. Whether it was a material error, is an issue I shall return to shortly.

26. Turning now to ground 2, this contends that the judge was wrong to place weight upon inconsistencies in the appellant's evidence given in his screening interview and subsequently. In JA (Afghanistan) the Court of Appeal did, as Mr Neale submitted, caution against reliance upon what was said in a screening interview which, unlike the asylum interview, is unrecorded and therefore its accuracy cannot be checked. At [24], Moore-Bick LJ (with whom Gloster and Vos LJJ agreed) said this:

> "[A Tribunal] does, however, have an obligation to consider with care how much weight is to be attached to [the screening interview], having regard to the circumstances in which it came into existence. That is particularly important when considering the significance to be attached to answers given in the course of an interview and recorded only by the person asking questions on behalf of the Secretary of State. Such evidence may be entirely reliable, but there is obviously room for mistakes and misunderstandings, even when the person being questioned speaks English fluently. The possibility of error becomes greater when the person being interviewed requires the services of an interpreter, particularly if the interpreter is not physically present. It becomes greater still if the person being interviewed is vulnerable by reason of age or infirmity. The written word acquires a degree of certainty which the spoken word may not command. The 'anxious scrutiny' which all claimants for asylum are entitled to expect begins with a careful consideration of the weight that should properly be attached to answers given in these interviews. ... the decision-maker would need to bear in mind the age and background of the applicant, his limited command of English and the circumstances under which the initial interview and screening interview took place."

27. At [25], Moore-Bick LJ continued:

> "In my view the common law principle of fairness ... requires the Tribunal to consider with care the extent to which reliance can properly be placed on answers given by the appellant in his initial and screening interviews ...."

28. In this appeal, the judge relied upon a number of discrepancies in the appellant's evidence between his screening or initial interview and subsequently.

29. At para 28, she identified the appellant's failure at his screening interview to refer to the fact that he had been detained or involved with or been accused of involvement with a political organisation:

> "28. The Respondent did not accept that the Appellant had been arrested on the same occasion as his father and detained for 2 days. The Appellant was asked the basis of his asylum claim at question 30 of the initial interview and said that his father was killed by the opposition. He said he could not go back due to the bad situation and because he had no way to go back to. He was asked at question 35 whether he had ever been detained, either in the UK or any other country or in another country for any reasons and he is recorded as answering no. He was also asked at question 36 if he had ever

been involved with or accused of being involved with any political organisation to which he also is recorded as answering no."

30. At paras 29 – 30, the judge dealt with the appellant's explanation of why he had not mentioned these matters in his initial interview as follows:

> "29. The Appellant response in para 25 of his witness statement that was asked by the interpreter on the phone if he was arrested in Sudan and so he replied no, he barely managed to escape. He states that he did not meet with his solicitors after his screening interview and it was not read back to him. He had not seen his solicitor to discuss his first and second interviews and called him to see him after the interview but he never got back to him. He states that he did not even know his asylum claim had been refused and only found out when he went to London to participate in a peaceful protest. The Appellant says in paragraphs 26 and 27 that he was in fact asked whether he was involved in national defence army, police, government and never asked if he was involved in an opposition party. He further says that he was not asked if he had friends or family in an opposition group.
>
> 30. The Appellant has not produced any evidence to show that he complained that his solicitor failed properly to represent him and failed to take instructions on the screening interview or substantive interview or that he complained about the accuracy of the interpretation. The first time this explanation has been put forward is in this witness statement. Whilst I accept that they may be mistranslations in screening interviews there is no mention in it that the Appellant was involved in a political organisation, arrested and detained not merely in answer to the two specific questions but also when he was asked to describe briefly all the reasons why he could not return home. Instead he mentioned that he was a Christian in a Muslim country in Sudan and that he had no one in his own country. This is, I find a material omission."

31. At para 31, the judge referred to the fact that the appellant had not mentioned in his initial interview that he had been a member of G7 and failed to mention the he had friends or relatives working for opposition groups when his claim was that a friend, who was a member of G7, had recruited him:

> "31. The Respondent also contends that the Appellant is not a member of Ginbot 7 as claimed by him. I have found that his failure to mention this in his initial interview and to have subsequently addressed this is a material omission. The Appellant also said in his screening interview that he did not have friends or relatives working for opposition groups which is inconsistent with his claim that he has a friend called [N] who is a member of G7 and recruited him to the organisation. The Appellant states in his witness statement that the question was not interpreted correctly and had it been read back to him he would have corrected it. He says he was asked about his problems in Sudan in his screening interview and that he did not have a legal permit so he had difficulties with his employer but that this was not the main reason he left Sudan. The reason was because the Sudanese authorities in collaboration with the Ethiopian authorities were

> targeting Ginbot 7 members. Again, I do not accept for the reasons given above that all of the questions in the screening interview were translated so badly that the Appellant was unable to explain why he was unable to return to his home country."

Likewise, at para 35 the judge identified the appellant's failure to refer to the fact in his screening interview that he had been arrested with other members of G7 in 2014:

> "35. It is the Appellant's account that he was arrested with other members of G7 between 11 September 2014 and 10 October 2014. The Appellant's evidence in relation to this event has been inconsistent as between his screening and his asylum interview and for the reasons given. I do not accept his explanation for this."

32. The Court of Appeal in JA (Afghanistan) emphasised the need for caution and "careful consideration" of what weight should be given to answers in an unrecorded screening interview. In this appeal, the judge carefully considered the appellant's explanation that he had wholly omitted reference to central parts of his claim, for example his involvement with G7 and arrest and detention in Ethiopia. This was not a case where the judge 'picked through' the detail of the appellant's answers in, on the one hand his screening interview, and on the other hand in his asylum interview. It was not simply a lack of detail in his screening interview that led the judge to doubt the veracity of his account. It was the omission of central parts of his claim. The judge dealt with the appellant's explanation in his witness statement and, at paras 29–30, gave reasons why she did not accept that the omissions were explicable. In my judgment, the judge adequately considered what weight to attach to the omissions from the appellant's evidence in his screening interview given his claimed fear (based upon past events) in Ethiopia. Mr Neale pointed out that there were errors in the screening interview including the appellant's name, date of birth and town of birth. It is difficult, however, to conclude that the omissions from the screening interview relied upon by the judge could be the product of transcription error. It is not the case of a wrong or misplaced word being found in the screening interview but rather the wholescale omission in respect of questions which were designed to elicit the central aspects of the appellant's claim upon which he now relies. In the result, ground 2 is not made out.

33. In relation to ground 3, Mr Neale relied upon the fact that the appellant was a vulnerable witness and, although he accepted that the judge noted this in para 24 of the determination, he submitted that there was very little to suggest that she had taken this into account in assessing the appellant's evidence. He drew my attention to the UNHCR publication "Beyond Proof. Credibility Assessment in EU Asylum Systems" (May 2013) and that the appellant's vulnerability, including that he suffered from PTSD, were matters that had to be taken into account in assessing whether his recall of.

34. In response, Mr Richards relied on the fact that the judge did explicitly treat the appellant as a vulnerable witness including noting that he suffered from PTSD.

35. There is, in my judgment, no merit in this ground. The judge specifically dealt with the appellant's mental health, accepting the diagnosis of PTSD made by Dr Longman (see para 23). Thereafter, the judge noted in para 24 the difficulties stated by Dr Longman that the appellant had in speaking about events in Ethiopia. At para 24 the judge noted that she had "taken account of these observations in assessing the appellant's evidence".

36. Further, at para 27 the judge recorded that:

> "... There are aspects of his evidence that I do not find explicable either by reference to the background situation or to difficulties with memory which could be attributable to being a victim of torture."

37. The judge then went on to identify a number of discrepancies in the appellant's evidence (to which I have already made reference). Her reasoning is balanced. There were aspects of the appellant's evidence and his explanations which she did accept. For example, she accepted his explanation concerning his evidence, said to be inconsistent with the background evidence, about the basis of G7 and its headquarters and its aims (see paras 32 and 34).

38. In my judgment, the judge was meticulously cautious to have regard to the appellant's mental health and that he was a vulnerable person in assessing his evidence. It was, in my judgment, open to the judge to find that the discrepancies in his evidence were not the product of his vulnerability or mental health and so could be relied upon as inconsistencies relevant to an assessment of the veracity of his account. Accordingly, I reject ground 3.

39. Ground 4 challenges the judge's reasoning in para 33 which is in the following terms:

> "33. The Appellant has also not joined Ginbot 7 in the UK when he was interviewed. There is an email at A36 of his interview which welcomes him to Ginbot 7 dated 11 July 2016 which informs him his application has been successful. There is no evidence to show what process if any, he went through to obtain membership. Further the email does not confirm that he was a member in Ethiopia or Sudan nor is there any evidence to show that he sought such confirmation. There are also two photographs of him at a demonstration. The Appellant states in his witness statement that he could not participate earlier because he had been ill and had TB. He states that he participated in four protests between 2 May 2016 and 9 September 2016. The refusal letter is dated 7 April 2016. At the beginning of the asylum interview on 4 April 2016 he said he was fit and well and end of the interview said he was very well. In his screening interview in October 2015 he said he had a cough. I accept that he had tuberculosis. However, he has not produced any medical evidence to show that he was unable to approach the organisation in [the] UK prior to the refusal of his claim."

40. Mr Neale submitted that it was wrong for the judge to doubt the veracity of the appellant's claim on the basis that he had not been involved with G7 in the UK prior to the refusal of his asylum claim because he had provided an explanation, namely

that he suffered from tuberculosis. He submitted that it was difficult to see why the judge should expect the appellant to take part in G7 activities given his health. He also relied upon Dr Longman's report where at para 6.3.1 she said that the appellant has a tendency to downplay his symptoms.

41. Mr Richards submitted that the judge had not expected the appellant to take part in demonstrations while suffering from tuberculosis, rather she had taken into account his failure to approach or make contact with G7 in the UK prior to the refusal of his claim.

42. In my judgment, Mr Richards is correct, as is made plain by the final sentence of para 33 of the judge's determination. Whilst it might conceivably be unreasonable to expect the appellant to take part in demonstrations if he suffered from TB (although even that might be debatable), it was entirely open to the judge to take into account that he had not even approached or made contact with G7 prior to the decision to refuse him asylum and that his tuberculosis could not provide a satisfactory explanation for that. As the judge pointed out, there was no medical evidence to support a contention that tuberculosis would have prevented him doing so. I accordingly reject ground 4.

43. In the result, therefore, the only error that is discernable in the judge's decision concerned that part of para 28 when she relied upon the confusion or apparent inconsistency in the appellant's asylum interview at questions 12 and 13 without taking into account the transcription of the full interview. That error, however, was not in my judgment material to her adverse credibility finding. In her balanced reasons, she gave a number of reasons for disbelieving the appellant based upon sustainable discrepancies between his screening interview and his subsequent evidence and also his failure to claim asylum in a safe third country prior to arriving in the UK and his failure to contact G7 in the UK (if he were genuinely a supporter) prior to the refusal of his asylum claim. Those remaining sustainable reasons more than adequately provide sufficient support for the judge's adverse credibility finding, even taking into account what she describes as the "strong evidence" from Dr Longman supporting his account that he was injured as claimed.

44. For these reasons, therefore, the judge did not materially err in law in reaching her adverse credibility finding and so dismissing the appellant's appeal on asylum and humanitarian protection grounds.

45. That then leaves the final ground and the Art 3 (or Art 8) claim based upon a claimed risk to the appellant of committing suicide on return to Ethiopia. Mr Richards did not seek to argue that the judge had not erred in law by failing to consider the Art 3 claim which was raised in the submissions (and skeleton argument) before the judge and in Dr Longman's report. Mr Richards submitted, instead, that that error was not material. He submitted that paras 6.3.6 and 6.3.7 of Dr Longman's report could not lead a judge to find in the appellant's favour.

46. By contrast, Mr Neale submitted that paras 6.3.6 and 6.3.7 contained credible medical evidence that there would be an increased risk of suicide to the appellant on return.

47. Paragraph 6.3.6 and 6.3.7 of Dr Longman's report are in the following terms:

> "**6.3.6** [The appellant] denied any current suicidal plans or previous attempts at deliberate self-harm or suicide. In my opinion [the appellant] is currently at moderately low risk of suicide. Although he denied current suicidal plans he has a number of factors known to increase suicide risk, including: ongoing 'stressor' factors (his anxiety about his asylum case and family back home); being male (men are three times as likely as women); being unemployed; significant life events (traumatic experiences reported in Ethiopia); mental illness (likely PTSD and depression) (Mitchell & Dennis, 2006).
>
> **6.3.7** In my opinion [the appellant's] risk of suicide would increase if attempts were made to remove him from the UK, or if he were actually deported to Ethiopia. In response to such events, it is my view that his mental state would be likely to deteriorate significant as his fear of being killed would act as a major 'stressor'."

48. In J v SSHD [2005] EWCA Civ 629, the Court of Appeal held that Art 3 of the ECHR may be breached if there is a real risk of an individual committing suicide as a foreseeable consequence of his removal. The court recognised that the Art 3 threshold was particularly high (see [28]). The court recognised that regard must be had to any reasonable steps which would be taken to remove or reduce any risk of suicide both during the process of removal and in the country of origin.

49. In this appeal, both before the judge and before me, reliance was placed solely upon paras 6.3.6 and 6.3.7 of Dr Longman's report. In para 6.3.6, she reports that the appellant denied having any current suicidal plans and that any risk of suicide was "moderately low". In para 6.3.7, she identified that circumstances might increase that risk such as the fear of his being killed on return. Of course, as the judge found, any such risk would not be objectively well-founded. That is not because the appellant has a genuine fear which is not objectively well-founded but because it was not established that he genuinely had a fear based upon his past involvement in politics in Ethiopia. The "major stressor" identified by Dr Longman in para 6.3.7 is, therefore, not established.

50. I was not referred to any material, relied upon before the judge or to be relied before me, in relation to what, if any, mental health services would be available to the appellant in Ethiopia to support him if he developed suicidal ideation or plans or which would be available to deal with his PTSD. On the basis of Dr Longman's report, as relied upon before me, and in the absence of any evidence that there would be a lack of support for the appellant in Ethiopia, I do not accept that the appellant had any prospect of establishing the high threshold required for Art 3 (or indeed Art 8) based upon a claimed risk of suicide. The claim was, in my view, bound to fail and had the judge considered it she would inevitably have dismissed the appeal under Art 3 9and Art 8). Her failure to consider Art 3 was, therefore, not material.

**Decision**

51. For the above reasons, the First-tier Tribunal's decision to dismiss the appellant's appeal did not involve the making of a material error of law. The decision stands.

52. Accordingly, the appellant's appeal to the Upper Tribunal is dismissed.

Signed

A Grubb
Judge of the Upper Tribunal

31 October 2017

**TO THE RESPONDENT**
**FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

A Grubb
Judge of the Upper Tribunal

31 October 2017