Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: DA/00434/2017

THE IMMIGRATION ACTS

Field House
On 5th June 2019

Decision and Reasons Promulgated
On 20th June 2019

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

RUSLANS [K]
(ANONYMITY ORDER NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Ms S Iqbal, of Counsel, instructed by Sterling Lawyers Ltd
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. The appellant is a citizen of Latvia born in 1990. He came to the UK to join his parents and brothers in October 2011. He met his partner in November 2011 and they started to cohabit in December 2011. They have two children together born in 2013 and 2016. The appellant was convicted of 23 offences on seven occasions from

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December 2012, most of which were shoplifting and theft but include driving whilst uninsured, travelling on a railway without paying the fare, using threatening and abusive words and possession of heroin. The offending behaviour was dealt with by means of fines until June 2017 when he received a 14-day sentence of imprisonment for 12 theft offences and a further 10 days for failing to surrender to custody at the appointed time.

2. As a result of his criminal record on 20th July 2017 the respondent made a deportation order against the appellant under Regulation 23(6)(b) of the 2016 EEA Regulations on the grounds that it was justified on public policy grounds. He was convicted of a further offence of stealing three bottles of hair and skin care tablets and given a conditional discharge in June 2018. His appeal against the decision was dismissed by First-tier Tribunal Judge Monson in a determination promulgated on the 22nd November 2018.

3. Permission to appeal was granted by Upper Tribunal Judge Chalkley on 20th February 2019 on the basis that it was arguable that the First-tier judge had erred in law in applying an "unduly harsh" test in relation to the appellant's children when considering the proportionality of his removal. An Upper Tribunal Panel found that the First-tier Tribunal had erred in law for the reasons set out in the error of law decision appended at Annex A to this decision.

4. The matter came before me to remake the appeal. It was clarified at the start of the hearing that Ms Iqbal accepted that the appellant was only entitled to the lower level of protection under the EEA Regulations and was not entitled to the higher level due to his partner having permanent residence. Mr Melvin said it was accepted that the appellant had family life with his partner and children. Ms Iqbal wished the Tribunal to consider a letter from the appellant's drugs worker on his detox programme. I directed that this should be filed with the Upper Tribunal and served on the respondent by 5pm on 12th June 2019, and that the respondent would then have until 5pm on 14th June 2019 to provide any comments on that letter. I would determine the appeal after receipt of any evidence provided in accordance with these directions. At the end of the hearing I reserved my determination.

5. I received and considered both an email letter from Mr Alan Bellamy recovery worker for South London and Maudsley NHS Foundation Trust dated 11th June 2019 and representations from Mr Melvin dated 13th June 2019.

Evidence & Submissions – Remaking

6. I set out in summary the evidence from the appellant from his statements and oral evidence which was given through a Russian interpreter.

7. The appellant says that he came to the UK with his parents and siblings in 2011, when he was 21 years old. He says he was doing self-employed work on building sites and painting and decorating work from 2013 to 2015 when he had an accident at work, which in turn led to severe pain and his being prescribed

Tramadol an addictive painkiller. He was not able to return to his self-employed work after this time bar doing a few odd painting jobs for friends and doing DIY work at home and for family.

8. The appellant met his partner in 2011, and they have two children a daughter born in 2013 and a son born in 2016. His children attend primary school and his partner works as a cleaner. His wife and daughter have permanent residence in the UK. He is very attached to his children, and it has affected them adversely when he has been detained for immigration reasons.

9. His evidence is that he committed the 2016/7 crimes because he was in pain following his accident and because he associated with negative influences and developed a heroin addiction. He says neither of these issues applies now. He says he currently takes methadone from his GP, and has a drugs worker whom he sees regularly and has worked with over the past two years following his arrest in May 2017. He is planning to come gradually off the methadone in due course, taking "stepping stone" courses to support him in this progression and moving to taking calming/ sleeping pills rather than methadone. Even when he was detained briefly under the Immigration Acts he has kept in touch with his drugs worker, who also has contact with his partner.

10. The appellant says he is very sorry about the theft of the tablets to encourage hair growth in June 2018 which was a foolish impulsive act he deeply regrets. He paid the compensation payments imposed. He says that the crimes he was convicted for in January 2012 (shoplifting and failure to surrender to custody at the appointed time), March 2013 (driving a car without insurance) and the railway ticket offences in 2016 and 2017 were not ones which he committed to fund a drug habit. He attributes those offences to the fact he had no work at the particular time when they were committed, and the fact that he was influenced by bad people. The convictions in 2017 for theft/ shoplifting/ possession of heroin/ use of threatening and abusive words and disorderly behaviour offences were ones which he committed to fund his heroin addiction or as a result of that addiction. His evidence is that he has not committed any offences over the past year and has not been in trouble with the authorities in any way. He has changed his life and corrected his previous mistakes. He wants to stay in the UK and keep his family together.

11. The appellant says that he could not return to Latvia as he has no home there, as his parents sold their house in that country, and no family there as his parents and siblings live in the UK as well as his partner and children. He has no experience of working in Latvia and believes that construction works in a different way there. It would be hard for his family to go back as he fears he would not be able to find work to support them. He has his partner and two children in the UK, and they are all settled here and in school, and do not speak Latvian as they are a Russian speaking family and his children also speak English. He is very involved with the upbringing of his children, taking them to and from school and to the park, doing drawing with his daughter and providing other entertainments for them.

12. The OASys report regarding the 2017 offences sets out that the appellant stole to support his heroin habit. The OASys report writer finds that the appellant lives in a stable arrangement with his partner and children near to his mother's home, and that that he is now only associating with family so that he does not encounter those who encourage his drug use. It is also recorded that he had participated in drug awareness courses; that he was on methadone; and that he has been completely illegal drug free since July 2018. The OASys report concludes that the appellant poses a low risk of serious harm but a medium risk of reoffending.

13. In the email letter from Allan Bellamy, recovery worker for South London and Maudsley NHS Foundation Trust dated 11th June 2019 forwarded to me by the appellant's solicitors it is clear that the appellant has been a client of theirs since August 2018 and is on methadone, an opiate substitute treatment. He is now on a methadone reduction programme and attends bi-weekly key worker sessions. He has cooperated fully, and routine urine drug screening has shown that he has taken no illegal substances. When the methadone reduction is complete, the timescale for which cannot be determined in advance, the appellant will also have a relapse prevention programme.

14. The additional evidence provided by the appellant's partner, Ms VS, which is set out in her statement and given orally through the Russian interpreter is in short summary as follows.

15. Ms VS confirmed that the appellant is on methadone and works with his drugs worker and has had no involvement with the criminal justice system since June 2018. It is her opinion that the appellant became addicted to heroin after having an accident at work and becoming addicted to painkillers prescribed by the GP including Tramadol. He had not taken illegal drugs prior to the accident, and she believed his convictions in 2017 related to his heroin addiction. She has no relatives in Latvia: her father, grandmother and aunt are all dead, and her mother and sister live in the UK. She went to a funeral in Latvia two years ago, but had not been there since. She does not wish to leave the UK where she has work and her home, and which is the home for her children. It would be hard for her children as it would be hard for the appellant and her to obtain work in Latvia. She would however return with the appellant if he was forced to go to Latvia as the appellant is her life partner and has a good and close relationship with the children doing things such as drawing with them and reading to them. She described how her son had become very difficult when the appellant was detained under the Immigration Acts refusing to go to nursery school and being hysterical, but that when the appellant returned home he became normal again.

16. Mrs IK, the appellant's mother attended the Upper Tribunal and gave oral evidence to support her statement through the Russian interpreter, in short summary her key evidence is as follows. She works as a cleaner in the UK. She believes that the appellant's offending behaviour came about due to the bad influence of others and his addiction to opioids which started when he sustained his back injury. She believes he regrets his actions and has moved on. She confirms

that the appellant has a very committed relationship with his children and looks after them and the home a lot, particularly as he is currently not allowed to work. She would feel impelled to return to Latvia if the appellant were deported there to support him as she is sure that that would be very stressful for him. She would also be concerned about her grandchildren as they speak English and Russian, not Latvian, and education is in Latvian only. She had come to the UK as she had struggled to find work in Latvia, and had insufficient money to support her three children.

17. Mr Melvin submitted that he relied upon the reasons for refusal letter and his written submissions as well as additional oral submission. In short summary he argues that the appellant posed a medium risk of reoffending, as set out by the OASys report, and it was clear that he was motivated by financial gain in his criminal behaviour as not all of his offending was driven by drug addiction as it had started within 3 months of his arrival in the UK and thus several years before he became addicted to heroin. There was a long history of offending and a real risk of reoffending, and it was argued that offending would reoccur as money was short in the family and it would seem that the appellant was only likely to get sporadic work. Some of the thefts in 2017 were more serious than just shop-lifting, and the appellant had one conviction in June 2018 after he started his drugs programme. The fact the appellant had not been in trouble in the last year was not a strong enough indicator that his offending behaviour had stopped. As such there was a genuine, present and sufficiently serious threat to a fundamental interest of society and the appellant fell to be deported. Further his deportation was proportionate as it was not disproportionate for the appellant's partner and children to leave just because his partner and daughter had an EEA right of permanent residence and because his partner and mother (who says she would return with him too) were exercising Treaty rights in the UK. It was not accepted that the appellant is integrated in the UK given his offending history. He would be able to obtain work in Latvia given his skills, the fact that he is in good health and the fact that Russian is widely spoken in that country. Mr Melvin also asserted that there would probably been distant family members living in Latvia to whom the appellant could turn for help.

18. Mr Melvin submitted that the most recent evidence from the appellant's recovery worker shows that he is engaging with the detox programme but also that it is unclear when the appellant will be recovered. The recovery worker does not say anything which means that the appellant is not a medium risk of reoffending or suggest that he is rehabilitated from his drugs habit. It is also not shown that he could not continue this programme in Latvia.

19. Ms Iqbal argues that it is not lawful under the EEA Regulations to deport the appellant. None of his offences have attracted a sentence of 12 months or more, and although being a persistent offender could make his deportation lawful it is not the case that he is such an offender anymore. It is argued that he does not currently pose a genuine, present and sufficiently serious threat to a fundamental interest of society as most of his offending was linked to his heroin addiction

which has now ended with his being on a methadone programme with the support of a drugs worker. He has not reoffended since starting this programme bar one very minor offence for which he received a conditional discharge a year ago, and since June 2018 he has not reoffended at all. He has protective factors such as his highly supportive nuclear and extended family, and the fact that he has been offered employment in the UK. Two potential employers gave evidence before the First-tier Tribunal, so there is no need for him to be short of money in the future. His deportation is also not proportionate under Regulation 27 of the EEA Regulations 2016 because he has lived in the UK for 7 years since the age of 21 years and has all family members in this country; he has a partner who is exercising Treaty rights in the UK and two children born in the UK – his partner and older child having permanent residence due to her exercise of Treaty rights and their period of residence; he and his family are integrated in the UK with his children being in school; due to the strong ties the children have with the appellant the family would all be forced to relocate to Latvia if he were deported which would cause the children difficulties as they do not speak Latvian at all as they are a Russian and English speaking and Latvian is the language of education and also further his deportation would lead to difficulties with money in the family due to a lack of employment in that country. His deportation would therefore be contrary to the best interests of his children.

Conclusions – Remaking

20. The appellant is an EEA citizen who may only be deported in accordance with Regulations 23 and 27 of the Immigration (EEA) Regulations 2016. The applicant is only entitled to the most basic level of protection as he does not have permanent residence. In order to deport him on public policy grounds, as the respondent proposes, it must be shown that his personal conduct represents a genuine, present and sufficiently serious threat to one of the fundamental interests of society. His criminal convictions alone cannot justify such a decision. The decision must be based exclusively on his personal conduct. The decision must also be proportionate and take into account his age, length of residence in the UK, state of health, family and economic situation and his social and cultural integration in the UK and his links with country of origin.

21. I find that all of the witnesses gave truthful evidence: their oral evidence was consistent with their written statements and with each other. They answered all questions put to them fully, and the appellant did not attempt to avoid responsibility for his criminal behaviour and there was no attempt to diminish it by the other witnesses.

22. I find that the appellant's offending prior to his period of drug addiction (two counts of shopping lifting and one of using a vehicle whilst uninsured) related to his being, young irresponsible and unemployed: the offending ceases in the period from March 2013 to 2015 when he has provided evidence that he was employed in the construction industry.

23. His offending recommenced after his accident when he was no longer able to work in construction. There are three offences of traveling on the railway without paying which he does not attribute to heroin addiction in 2016/17 but to a lack of income. He then acquired 7 convictions for theft, 6 convictions for shoplifting, one conviction for riding a bike on a pavement, one conviction for using threating and abusive words or behaviour, one conviction for failure to surrender at the appointed time and one conviction for possession of heroin all of which he attributes to his heroin addiction. As Mr Melvin submitted some of these thefts are of items worth larger sums of money such as a scaffold tower worth £2700. It was calculated in the OASys report that the total value of the 2016 and 2017 thefts was more than £6000. I find that this escalation in offending in 2016/17 was attributable to the appellant's heroin addiction which came about following his accident when he found himself in a situation of suffering on-going back pain and unemployment. The conclusion in the OASys report is that the appellant was determined to change his behaviour (see for instance paragraph 12) and had joined the drug service, decided to stop contact with his criminal associates and dedicate himself to his family. He was on methadone detoxification in custody, and in the professional opinion of the report writer his current attitude was not related to a risk of further offending behaviour. His family (partner, children and mother) were found to be supportive factors which I, like the OASys report writer find will make it less likely for him to reoffend. However, his predictor scores in that report are that whilst he is at low risk of serious harm to anyone he has a medium risk of non-violent reoffending.

24. The appellant has had one relapse into offending behaviour which resulted in a conditional discharge for shop-lifting vitamins in June 2018 since the OASys report which he attributed in his evidence before the First-tier Tribunal to an impulsive theft as he had wanted to try to address his hair loss which had been laughed at by family members and he could not afford to buy the tablets.

25. I find that the appellant has addressed the major factor in his offending behaviour, namely his heroin addiction. I am satisfied that he is participating in a long-term programme to address that addiction, through taking methadone and having the support of a drugs worker. His drugs recovery worker has made it clear in his email of 11th June 2019 that the appellant has cooperated fully with their service since August 2018 and routine urine tests have all been free of illegal substances. I find that the appellant has strong motivating factors to stay clean: his partner, children, supportive mother and accommodation. I find it unlikely that he will commit offences due to illegal drugs addiction in the future, particularly as he appears not to be suffering back pain which was part of his mental justification for taking drugs.

26. Mr Melvin has correctly identified that financial "need" has also been a theme in the appellant's criminal history: the three earlier convictions in 2012 – 2013, the three railway ticket offences in 2016/17 and the most recent shop-lifting offence all had that motivation. The fact that the appellant is not a heroin addict stealing to address his habit will not mean that he might not commit such offences in the

future. However, I accept that this pattern of offending was also linked to associating with persons who felt that such behaviour was acceptable, and the evidence of the appellant, which I accept, is that he no longer associates with these people confining his social contact to family members. I find that the appellant is now older and less likely to commit such crime as he has experienced the consequences of doing so in terms of separation from his family through being sent to prison and due to Immigration detention due to his current precarious status. It is also relevant that he will be able to earn some money from working for friends who have offered this in writing, and were sufficiently committed to this to attend the First-tier Tribunal to confirm these offers, and through self-employed painting, decorating and handyman type work. I find that the appellant's wife is also able to work full time albeit in low paid work.

27. I find that despite the predictor scores in the OASys report that there is a low risk that the appellant will reoffend when all of his current circumstances, as outlined above, are considered. His non-drugs related offending is also at the lowest end possible, as reflected in the conditional discharge he received for the offence he committed a year ago. On the totality of this evidence I find that the appellant does not pose a genuine, present and sufficiently serious threat to a fundamental interest of society.

28. Given that finding I look only briefly at the issue of whether the appellant's deportation would not be proportionate. The appellant's deportation to Latvia would be contrary to the best interests of his children. I find that it would be in their best interests to remain in the UK with both parents as this is the country of their birth and the only place they have ever lived for the following reasons. They are both in school here, and speak English and not Latvian, the language of education in Latvia. In the UK they live next door to their paternal grandparents in the UK and have friends in this country. Their mother has employment here, and whilst I find that it would not be impossible for the appellant and his partner to find a home and jobs in Latvia I find that they would struggle to do this as the difficulties with obtaining employment motivated the appellant's family's move to the UK in the first place and the family home there has been sold. The children also have all of their close family, grandparents, including their maternal grandmother, and their aunts and uncles (maternal and paternal), in the UK. I find that the appellant's partner and children are fully integrated in English society. I find that it is also of some weight that if he were required to leave then this would force his partner to give up her exercise of Treaty rights and permanent residence in the UK, and her ability to reside near her own mother and sister in the UK, which she would do if he were deported as she feels that it is in the best interest of the children to live as a family with the appellant and she herself is committed to her relationship with him. I find that the appellant has a degree of integration due to his period of residence and family ties, but accept that he is not fully integrated as this process has been disrupted by his criminal behaviour, time spent in custody and detention, addiction to illegal drugs, and this consequent deportation appeal process which has meant he has been unable to work. I find however that he has lost all significant ties with Latvia, with no family home or meaningful

family or friendship ties to that country. Considering the best interests of his children, with whom I find the appellant has strong parental ties, and the interests of his partner, his degree of integration in the UK and his lack of ties with Latvia I find that the deportation of the appellant would not be proportionate in all the circumstances of this case.

Decision:

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

2. The decision of the First-tier Tribunal is set aside.

3. I remake the appeal allowing it under the EEA Regulations.

Signed: *Fiona Lindsley* Date: 17th June 2019
Upper Tribunal Judge Lindsley

Annex A: Error of Law Decisions:

DECISION AND REASONS

Introduction

1. The appellant is a citizen of Latvia born in 1990. He came to the UK to join his parents and brothers in October 2011. He met his partner in November 2011 and they started to cohabit in December 2011. They have two children together born in 2013 and 2016. The appellant was convicted of 23 offences on seven occasions from December 2012, most of which were shoplifting but they also include driving whilst uninsured, travelling on a railway without paying the fare, using threatening and abusive words and possession of heroin. In June 2017 he received a 14-day sentence of imprisonment for 12 theft offences and a further 10 days for failing to surrender to custody at the appointed time. The appellant's offending is related to his having been addicted to heroin.

2. As a result of his criminal record on 20th July 2017 the respondent made a deportation order against the appellant under Regulation 23(6)(b) of the 2016 EEA Regulations on the grounds that it was justified on public policy grounds. His appeal against the decision was dismissed by First-tier Tribunal Judge Monson in a determination promulgated on the 22nd November 2018.

3. Permission to appeal was granted by Upper Tribunal Judge Chalkley on 20th February 2019 on the basis that it was arguable that the First-tier judge had erred in law in applying an "unduly harsh" test in relation to the appellant's children when considering the proportionality of his removal.

4. The matter came before us to determine whether the First-tier Tribunal had erred in law.

Submissions – Error of law

5. The grounds of appeal contend that the proportionality test under the EEA Regulations is distinct from that under Article 8 ECHR undertaken when an appellant argues he is entitled to succeed by showing compliance with the relevant Immigration Rules in deportation proceedings under domestic immigration law. The First-tier Tribunal erred by employing this test when it is not relevant to proportionality under the 2016 EEA Regulations, and it is at odds with the burden of proof being on the respondent in an EEA deportation appeal. There was also a failure to give weight to the appellant's partner's right to exercise Treaty rights in the UK which would be interfered with were he to be deported. This would also have a bearing on the appellant's ability to rehabilitate himself if he were deported if he were without his family in Latvia due to their remaining in the UK.

6. Ms Iqbal submitted in addition to the grounds that the proportionality consideration erred in relation to both the children and the partner: there was a failure to consider the fact that the children had been born in the UK and the oldest was being educated in this country, and the difficulties they might have adapting. There was also a failure to look at the impact of deportation on the appellant's partner particularly as it had been submitted that she had permanent residence in EU law as a person who had exercised Treaty rights for 5 years, see paragraph 27 of the decision. There was a failure to reason the proportionality decision in relation to the loss of rights she would suffer and other difficulties she might face on return or if she remained in the UK alone with the children.

7. Ms Iqbal very properly accepted that it had not been argued in the application for permission to appeal that the decision was flawed as there was no consideration as to whether the appellant had permanent residence, and thus the high level of protection from deportation, through his partner. However, she submitted this was an issue which clearly arose and ought to be decided if the decision was remade.

8. In a Rule 24 response the respondent argues that the First-tier Tribunal carefully notes that this was a deportation under the 2016 EEA Regulations. The First-tier Tribunal concluded that the appellant is a medium risk of reoffending and does not qualify for permanent residence. These findings are not challenged. It is not accepted that the approach to the OASys report is incomplete. Whilst it is accepted that the Immigration Rules and Part 5A of the 2002 Act do not apply to an EEA deportation decision it is argued that this is not what was done by the First-tier Tribunal. It is argued that the First-tier Tribunal did take into account the impact of deportation on family members and his prospects of rehabilitation in Latvia. It is argued that the decision is properly made in the context of this appellant only having basic level protection under EEA law. As such there is no error of law which requires that the decision be set aside.

9. Mr Melvin added that any rights in EU law that the appellant's partner might possess were not material to the determination of the appeal and that the children were young and adaptable, and so all relevant material had been considered by the First-tier Tribunal in considering the proportionality of the appellant's removal.

Conclusions – Error of law

10. It is clear that the First-tier Tribunal was fully aware that this was an EEA deportation appeal, and sets out the relevant legal framework at paragraphs 2 to 4 of the decision. In the grounds of appeal the appellant does not challenge the conclusion that he does not hold permanent residence as a result of his own exercise of Treaty rights, and thus has only the lowest level of protection against deportation, set out at paragraph 69 of the decision. As such the relevant test for deportation was that the respondent had to show that the appellant's deportation is justified in the public interest based solely on his personal conduct because he

poses a genuine, present and sufficiently serious threat to a fundamental interest of society, and further that his deportation is proportionate given his age, state of health, his family and economic situation and in the context of his social and cultural integration to the UK and links with his country of origin.

11. The First-tier Tribunal concludes that the appellant poses a medium risk of reoffending, although evidence is set out that he has made significant progress in rehabilitating himself and abstaining from drugs since the deportation decision was made, albeit it is also noted that he was convicted of stealing three bottles of hair, skin and nail care tablets in June 2018 and given a conditional discharge by a Magistrates Court.

12. We find that the First-tier Tribunal erred as it failed to make a finding as to whether the appellant's partner holds permanent residence under the EEA Regulations and also to take into account the interference with her right of permanent residence and/or her right to exercise Treaty rights in the UK when considering the proportionality of the appellant's deportation. Proportionality ought to have fully considered the appellant's family's situation. His partner has been in the UK since 2010 and has always worked and is currently working as a self-employed cleaner. In her witness evidence she says that she has struggled whilst the appellant was imprisoned and detained to provide financially and emotionally for the children in the UK, and she also says that she would struggle to find employment in Latvia if she returned there. There was also a failure by the First-tier Tribunal to consider the witness evidence that the older child speaks English and is happy at school, with some school evidence provided in support of this, when concluding that the best interests of the children would be served by the appellant and his partner returning to Latvia.

13. There is no test applicable in this EEA law proportionality framework of whether the impact of the appellant's deportation on the appellant's partner and children would be "unduly harsh", but this is the one apparently employed at paragraph 84 of the decision in the consideration of the proportionality of the appellant's deportation. We find this also amounts to an error of law as it is indicative of the application of an irrelevant, and possibly more onerous, legal test.

14. As a result of these findings we set aside the decision of the First-tier Tribunal. We preserve however the findings of the First-tier Tribunal at paragraphs 61 to 69 that the appellant is not entitled to permanent residence as a result of his own exercise of Treaty rights in the UK. All other findings are set aside, and will be remade.

15. We adjourned the remaking hearing as both parties submitted that this was appropriate as Ms Iqbal wishes to argue that the appellant has permanent residence as a result of his partner having permanent residence and thus a higher level of protection against deportation, an argument which had not previously been raised, and also because the risk assessment and proportionality exercise will require up-dating evidence on the appellant's criminal record and the position of

his family in the UK and the possibility of further oral evidence from the appellant and his partner.

Decision:

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

2. We set aside the decision of the First-tier Tribunal.

3. We adjourn the remaking of the appeal.

Directions

1. The appellant must by 4pm on 1st May 2019 file on the Upper Tribunal and serve on the respondent a new paginated bundle containing only relevant documents for the remaking hearing. This bundle will include any new documents for which permission is sought to adduce them before the Upper Tribunal and also a skeleton argument setting out all arguments on which reliance will be placed at the remaking hearing.

2. The respondent must by 4pm on 15th May 2019 file and serve a skeleton argument in reply to that of the appellant attaching any documents for which permission to adduce before the Upper Tribunal is sought.

Signed: *Fiona Lindsley* Date: 9th April 2019
Upper Tribunal Judge Lindsley