



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/00299/2020  
(PA/50485/2020)

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 22 March 2022**

**Decision & Reasons  
Promulgated  
On 14 June 2022**

**Before**

**UPPER TRIBUNAL JUDGE McWILLIAM**

**Between**

**A S J  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms D Revill, Counsel, instructed by Ata & Co Solicitors

For the Respondent: Ms A Ahmed, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Somalia. His date of birth is 5 January 1998. He fled Somalia in 2014. He travelled to Sweden (via Ethiopia) where he lived with his aunt. He made a protection claim in Sweden which was refused. He came to the United Kingdom in February 2018 unlawfully with the help of an agent. He made a claim on protection grounds on 24 February 2018. In October 2018 he was removed from the United Kingdom to Sweden. He travelled unlawfully again to the United Kingdom in April

2019 using a false passport. He made another claim for asylum on 29 May 2019.

2. In a decision dated 8 February 2022 I set aside the decision of the First-tier Tribunal (Judge Bartlett) dismissing the Appellant's appeal against the decision of the SSHD dated 17 June 2020 on protection grounds having found that he could safely and reasonably relocate. The Appellant is at risk on return to Barawe, his home area of Somalia, from the militant group Al-Shabaab, as found by the First-tier Tribunal. I found that the judge erred in respect of relocation. My error of law decision reads as follows:-

"9. Ground 1 asserts that the judge erred in misapplying the guidance in MOJ with reference to the judge's finding at paragraph 20(x) (the Appellant is a member of a minority clan, who at the most would be able to provide a support network in terms of helping to find a livelihood). The guidance in MOJ specifically at paragraph (vii) of the headnote indicates that help in re-establishing oneself and securing a livelihood is only likely to be forthcoming for majority clan members as minority clans may have little to offer. It was not in dispute that the Appellant is a member of the Ashraf clan which is a minority clan. The judge set out (vii) to (xi) of the headnote in MOJ however, the paragraphs are incorrectly numbered and what in fact the judge set out was (viii) to (xii). The significance of this is that the judge did not set out paragraph (vii) of the headnote in MOJ. This does not in itself amount to an error of law however, it tends to support the judge misunderstanding the significance of being a member of a minority clan in terms of available support. While I appreciate the terminology used by the judge, 'at the most' at paragraph 20(x), it is not clear what weight the judge attached to clan support. In the light of what is said by the Upper Tribunal at paragraph 343 of MOJ, the headnote at (vii) and the judge finding the case, 'reasonably, finely balanced,' I cannot be certain that the judge did not attach impermissible weight to the availability of minority clan support. This is a material error. While I have taken on board, Ms Ahmed's submission about the terms of the findings in MOJ and accept that "may have little to offer" is not necessarily the same as not being able to offer any support, the judge did not make it clear what weight he attached to clan support"

3. Ms Revill was unwell during the error law hearing. I directed that at the resumed hearing I would determine grounds 2-4 as a preliminary issue, having set aside the decision on the basis that ground 1 was made out. The remaining grounds are significant because they relate to the overall finding of the judge that the Appellant would receive help from abroad on his return to Somalia by way of remittances. The judge took into account that the Appellant had paid for agents on two or three occasions. Ground 2 is that the judge did not have regard to the Appellant's own source of income from the Swedish government which he could have used to fund the journey. This is a source of income which would not be available on his return to Somalia. Furthermore the judge did not take into account that his journey from Somalia to Sweden via Ethiopia was funded by the

Appellant's mother with whom he has lost contact. The judge accepted that the Appellant would not be supported by his mother in future. Ground 3 asserts that it was not open to the judge to reject the Appellant's claim to have travelled using a lost passport because this was not a matter raised by the Secretary of State. This is significant because he did not pay an agent to facilitate his journey. Ground 4 asserts that the judge failed to give any or adequate reasons for finding that the Appellant's uncle would financially support him in Somalia.

4. The Judge of the First-tier Tribunal was not satisfied that the Appellant would not receive financial support from his family if he were returned to Mogadishu. The judge stated as follows

“ 16. ... this is because on the Appellant's own account his family has paid for an agent on two occasions for him to enter firstly Sweden in 2014 and several years later the United Kingdom in 2019. The Appellant claimed that he entered the United Kingdom in 2018 on a passport that he found at a football ground. I find this claim to be wholly unconvincing because it would have been a master stroke of luck for the Appellant to have found a passport with a photo and a date of birth that bore sufficient resemblance to him for him to use to fly to the United Kingdom. Therefore I find that the Appellant has paid an agent on three occasions to enter European countries. Even if it were only two occasions this would involve a substantial amount of money.

17. The Appellant's account is that his aunt works but he does not know what her income and expenditure is. He does not know what his uncle's income is. The Appellant's evidence about his uncle was that he did not care about him he let him stay at the address but mainly as a correspondence address. Even taking the Appellant's claim that his uncle has little interest in him, the Appellant felt sufficient connection to his uncle to re-enter the United Kingdom after his first entry in 2018 to go and stay with his uncle.
18. I agree with Ms Revill's submission that the Appellant cannot be criticised for failing to provide information about his contact with the Red Cross or any other evidence about contacting his mother because it had not been raised by the Respondent at any time until oral evidence.
19. In summary I conclude that the Appellant would not have family to assist him if he were sent to Mogadishu but I find that he would receive financial support from relatives outside Somalia, namely his aunt and uncle and whoever has paid for his illegal entry to the United Kingdom.

20. I must carefully assess all the circumstances surrounding the Appellant's potential removal to Mogadishu:
- (i) the Appellant is a healthy young man;
  - (ii) it was evident from the hearing that he speaks reasonable English;
  - (iii) the Appellant has limited education that he attended school in Somalia and Sweden. I do not consider that limited formal qualifications would prove a barrier to finding a livelihood in Mogadishu - the economy is not knowledge based;
  - (iv) the Appellant moved to Sweden as a teenager and later to the United Kingdom. He has demonstrated personal fortitude and an ability to establish himself and form a new life. These are skills that would be most useful to him if he were sent to Mogadishu;
  - (v) the Appellant has no family to assist him in Somalia;
  - (vi) the Appellant has never lived in Mogadishu;
  - (vii) the Appellant would benefit from financial support from relatives outside Somalia;
  - (viii) the Appellant left Somalia as a teenager but he was not an adult;
  - (ix) the Appellant had been absent from Somalia for six years which is a considerable period of time in the life of a young man;
  - (x) the Appellant is a member of a minority clan who, at the most would be able to provide a support network in terms of helping to find a livelihood;
  - (xi) the Appellant has been surrounded by Somali culture his entire life as. when he has been outside Somalia he has lived with his extended Somalian family;
  - (xii) the Appellant speaks the language in Somalia and is able to communicate fully".

*Error of law - Grounds 2-4*

5. When considering whether the Appellant would have remittances from abroad the judge took into account that the Appellant entered Sweden in 2014 having paid an agent and that he also entered the United Kingdom 2018 with an agent, the implication being that the Appellant had access to funds. The Appellant's evidence was that his mother paid for the first trip

to Sweden in 2014. This was not challenged by the SSHD. It was accepted by the judge that the Appellant no longer had contact with his mother. Therefore it was not reasonable to assume that she could finance the Appellant if he returned to Somalia. In respect of the second trip (from Sweden to the United Kingdom) in 2019 Appellant's evidence that he did not pay an agent but that he had entered the UK using a false passport was not challenged by the SSHD. It was not open to the judge to reject this aspect of the evidence. The judge found that the Appellant had paid an agent on three occasions, but this finding was not open to the judge. The judge did go on to say that if it were only two occasions this would involve a substantial amount of money, however, I accept that the judge was not entitled to reject evidence that was not in dispute and that this may have infected the overall assessment of the possibility of remittances being made. This was an error of law. Ground 1 is made out. Moreover, I accept that the judge did not take into account that the Appellant had an income from the Swedish government and currently from the United Kingdom government when assessing how the journey's were funded. Ground 2 is made out.

6. The judge determined whether the Appellant would have the support of a family member outside Somalia. The judge decided that the Appellant would have the support of his aunt and uncle. The Appellant's evidence before the First-tier Tribunal was that they would not be able to support him. He knew very little about their financial circumstances and there was no evidence from them. In my view it was open to the judge to reject the Appellant's evidence about the aunt and uncle because it was lacking in detail. A proper reading of the decision discloses that the judge did not find the Appellant's evidence sufficient to discharge the burden of proof in this regard.
7. However, the error is are material because the judge's findings in respect of how the Appellant funded journeys to the United Kingdom formed part of the overall reasoning for finding that the Appellant would benefit from remittances should he return to Somalia. I find that grounds 2 and 3 are made out.
8. While the grounds do not identify error in the judge's finding that the Appellant's aunt and uncle would be able to offer some support, the judge erred in respect of the matters raised above. I do not find that there is a discrete error of law in respect of ground 4, however, the overall finding about remittances is flawed. In respect of ground 4 and the position of the Appellant's aunt and uncle the Appellant submitted further evidence at the resumed hearing.

#### *The resumed hearing*

9. At the hearing before me the Appellant relied on the bundle that was before the First-tier Tribunal and a bundle prepared for the hearing before the UT. This bundle contained a further witness statement from the Appellant of 16 March 2022 and statements of the same date from the

Appellant's uncle, Mahamoud Gulad, and an e-mail from the Appellant's aunt, Farhija Hashi. Ms Ahmed did not object to the admission of this evidence which Ms Revill stated was relied on to engage with the issues raised in OA (Somalia) v SSHD CG [2022] UKUT 0033 which was promulgated after the date of the hearing before the First-tier Tribunal.

10. I heard oral evidence from the Appellant who was cross-examined by Ms Ahmed. I heard submissions from the representatives. Ms Revill relied on her skeleton argument. I will not set out submissions in full. I will engage with them in my findings.

### OA (Somalia) CG [2022] UKUT 0033

11. I set out the headnote in OA below. However, the parties relied on specific paragraphs of the decision which I engage with in my findings.

1. *In an Article 3 "living conditions" case, there must be a causal link between the Secretary of State's removal decision and any "intense suffering" feared by the returnee. This includes a requirement for temporal proximity between the removal decision and any "intense suffering" of which the returnee claims to be at real risk. This reflects the requirement in Paposhvili [2017] Imm AR 867 for intense suffering to be "serious, rapid and irreversible" in order to engage the returning State's obligations under Article 3 ECHR. A returnee fearing "intense suffering" on account of their prospective living conditions at some unknown point in the future is unlikely to be able to attribute responsibility for those living conditions to the Secretary of State, for to do so would be speculative.*

#### Country Guidance

2. *The country guidance given in paragraph 407 of MOJ (replicated at paragraphs (ii) to (x) of the headnote to MOJ) remains applicable.*
3. *We give the following additional country guidance which goes to the assessment of all the circumstances of a returnee's case, as required by MOJ at paragraph 407(h).*
4. *The Reer Hamar are a senior minority clan whose ancient heritage in Mogadishu has placed it in a comparatively advantageous position compared to other minority clans. Strategic marriage alliances into dominant clans has strengthened the overall standing and influence of the Reer Hamar. There are no reports of the Reer Hamar living in IDP camps and it would be unusual for a member of the clan to do so.*
5. *Somali culture is such that family and social links are, in general, retained between the diaspora and those living in Somalia. Somali family networks are very extensive and the social ties between different branches of the family are very tight. A returnee with family and diaspora links in this country will be unlikely to be more than a small number of degrees of separation away from establishing contact with a member of their clan, or extended family, in Mogadishu through friends of friends, if not through direct contact.*
6. *In-country assistance from a returnee's clan or network is not necessarily contingent upon the returnee having personally made remittances as a member of the diaspora. Relevant factors include whether a member of the returnee's*

*household made remittances, and the returnee's ability to have sent remittances before their return.*

- 7. A guarantor is not required for hotel rooms. Basic but adequate hotel accommodation is available for a nightly fee of around 25USD. The Secretary of State's Facilitated Returns Scheme will be sufficient to fund a returnee's initial reception in Mogadishu for up to several weeks, while the returnee establishes or reconnects with their network or finds a guarantor. Taxis are available to take returnees from the airport to their hotel.*
- 8. The economic boom continues with the consequence that casual and day labour positions are available. A guarantor may be required to vouch for some employed positions, although a guarantor is not likely to be required for self-employed positions, given the number of recent arrivals who have secured or crafted roles in the informal economy.*
- 9. A guarantor may be required to vouch for prospective tenants in the city. In the accommodation context, the term 'guarantor' is broad, and encompasses vouching for the individual concerned, rather than assuming legal obligations as part of a formal land transaction. Adequate rooms are available to rent in the region of 40USD to 150USD per month in conditions that would not, without more, amount to a breach of Article 3 ECHR.*
- 10. There is a spectrum of conditions across the IDP camps; some remain as they were at the time of MOJ, whereas there has been durable positive change in a significant number of others. Many camps now feature material conditions that are adequate by Somali standards. The living conditions in the worst IDP camps will be dire on account of their overcrowding, the prevalence of disease, the destitution of their residents, the unsanitary conditions, the lack of accessible services and the exposure to the risk of crime.*
- 11. The extent to which the Secretary of State may properly be held to be responsible for exposing a returnee to intense suffering which may in time arise as a result of such conditions turns on factors that include whether, upon arrival in Mogadishu, the returnee would be without any prospect of initial accommodation, support or another base from which to begin to establish themselves in the city.*
- 12. There will need to be a careful assessment of all the circumstances of the particular individual in order to ascertain the Article 3, humanitarian protection or internal relocation implications of an individual's return.*
- 13. If there are particular features of an individual returnee's circumstances or characteristics that mean that there are substantial grounds to conclude that there will be a real risk that, notwithstanding the availability of the Facilitated Returns Scheme and the other means available to a returnee of establishing themselves in Mogadishu, residence in an IDP camp or informal settlement will be reasonably likely, a careful consideration of all the circumstances will be required in order to determine whether their return will entail a real risk of Article 3 being breached. Such cases are likely to be rare, in light of the evidence that very few, if any, returning members of the diaspora are forced to resort to IDP camps.*
- 14. It will only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which would be reasonable for internal relocation purposes.*
- 15. There is some mental health provision in Mogadishu. Means-tested anti-psychotic medication is available.*

16. *Hard drugs are not readily available in Mogadishu, and the focus of substance abuse is khat, cannabis, alcohol and tobacco. It is not reasonably likely that an ordinary returnee, without significant means or pre-existing connections to criminal elements in Mogadishu, would be able to procure hard drugs, such as heroin and cocaine, upon their return.*

Other country guidance given by MOJ

17. *The country guidance given at paragraph 408 of MOJ ((xi) of the headnote) is replaced with the country guidance at paragraph (14), above. Paragraph 425 of MOJ ((xii) of the headnote) should be read as though the reference to “having to live in conditions that will fall below acceptable humanitarian standards” were a reference to “living in circumstances falling below that which would be reasonable for internal relocation purposes”.*

**MOJ and Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442**

LEGAL GUIDANCE

- (ii) *As a general principle, where attendance of an appellant is a prerequisite to the vindication of the person’s right to a fair hearing, the appellant must be present.*

COUNTRY GUIDANCE

- (i) *The country guidance issues addressed in this determination are not identical to those engaged with by the Tribunal in AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC). Therefore, where country guidance has been given by the Tribunal in AMM in respect of issues not addressed in this determination then the guidance provided by AMM shall continue to have effect.*
- (ii) *Generally, a person who is “an ordinary civilian” (i.e. not associated with the security forces; any aspect of government or official administration or any NGO or international organisation) on returning to Mogadishu after a period of absence will face no real risk of persecution or risk of harm such as to require protection under Article 3 of the ECHR or Article 15(c) of the Qualification Directive. In particular, he will not be at real risk simply on account of having lived in a European location for a period of time of being viewed with suspicion either by the authorities as a possible supporter of Al Shabaab or by Al Shabaab as an apostate or someone whose Islamic integrity has been compromised by living in a Western country.*
- (iii) *There has been durable change in the sense that the Al Shabaab withdrawal from Mogadishu is complete and there is no real prospect of a re-established presence within the city. That was not the case at the time of the country guidance given by the Tribunal in AMM.*
- (iv) *The level of civilian casualties, excluding non-military casualties that clearly fall within Al Shabaab target groups such as politicians, police officers, government officials and those associated with NGOs and international organisations, cannot be precisely established by the statistical evidence which is incomplete and unreliable. However, it is established by the evidence considered as a whole that there has been a reduction in the level of civilian casualties since 2011, largely due to the cessation of confrontational warfare within the city and Al Shabaab’s resort to asymmetrical warfare on carefully selected targets. The present level of casualties does not amount to a sufficient risk to ordinary civilians such as to represent an Article 15(c) risk.*
- (v) *It is open to an ordinary citizen of Mogadishu to reduce further still his personal exposure to the risk of “collateral damage” in being caught up in an Al Shabaab*



*attack that was not targeted at him by avoiding areas and establishments that are clearly identifiable as likely Al Shabaab targets, and it is not unreasonable for him to do so.*

- (vi) *There is no real risk of forced recruitment to Al Shabaab for civilian citizens of Mogadishu, including for recent returnees from the West.*
- (vii) *A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for majority clan members, as minority clans may have little to offer.*
- (viii) *The significance of clan membership in Mogadishu has changed. Clans now provide, potentially, social support mechanisms and assist with access to livelihoods, performing less of a protection function than previously. There are no clan militias in Mogadishu, no clan violence, and no clan based discriminatory treatment, even for minority clan members.*
- (ix) *If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:*
  - *circumstances in Mogadishu before departure;*
  - *length of absence from Mogadishu;*
  - *family or clan associations to call upon in Mogadishu;*
  - *access to financial resources;*
  - *prospects of securing a livelihood, whether that be employment or self employment;*
  - *availability of remittances from abroad;*
  - *means of support during the time spent in the United Kingdom;*
  - *why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.*
- (x) *Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.*

12. The guidance in MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) which remains relevant in so far as relocation is concerned is as following:-

- (ix) *If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:*
  - *circumstances in Mogadishu before departure;*

- *length of absence from Mogadishu;*
- *family or clan associations to call upon in Mogadishu;*
- *access to financial resources;*
- *prospects of securing a livelihood, whether that be employment or self employment;*
- *availability of remittances from abroad;*
- *means of support during the time spent in the United Kingdom;*
- *why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.*

### Findings and Reasons

13. The First-tier Tribunal made findings which are not challenged. The Appellant is from a minority clan. He has no family in Somalia to assist him. He left Somalia in 2014, since when he has not had contact with his mother. He has no health problems. He has not worked in Somalia, having left as a child. He is at risk on return to his home area. He has never lived in Mogadishu. While he was in Sweden he lived with his aunt Farhiya Hashi. In the United Kingdom he lives with his uncle, Mahamoud Gulad.
14. I have to decide whether it would be unduly harsh or unreasonable to expect the Appellant to relocate. (It is not suggested that he would be at risk from Al-Shabaab in Mogadishu). There was no issue as to the relevant test. It is that set out in Januzi v. Secretary of State for the Home Department & Ors [2006] UKHL 5 (15 February 2006). I must make an holistic assessment: AS (Afghanistan) v Secretary of State for the Home Department [2019] EWCA Civ 873 (24 May 2019); [2019] 1 WLR 5345.
15. The standard of proof is low, it is “*reasonable degree of likelihood*”: R v SSHD, ex p Sivakumaran [1988] Imm AR 147. It falls well short of the balance of probabilities: RS (Sri Lanka) v Secretary of State for the Home Department [2019] EWCA Civ 1796 (28 October 2019) at [26-28].
16. The issues of clan support and the availability of remittances must now be considered in the light of OA. There was further evidence before me that was not before the First-tier Tribunal; including the Appellant’s evidence that his mother is from a different clan to his father and that her family did not agree to the union. The Appellant’s aunt and uncle are members of his mother’s family. It is the Appellant’s evidence that assistance will not be forthcoming from his mother’s family or from members of her clan.
17. There was no evidence before the First-tier Tribunal from the Appellant’s uncle with whom he lives in the UK or from his aunt with whom he lived in Sweden. There was evidence before me from both. The Appellant’s aunt in Sweden, Farhiya Hashi, has produced a letter/email. Her evidence is that she is related to the Appellant’s mother. She is unable to support the

Appellant. She has five children. She does not send money to Somalia. She has no family there. The Appellant's uncle, Mahamoud Gulad, states that he allows the Appellant to live with him in the United Kingdom, but he does not give him money and he does not send money to Somalia. He has part-time employment only as a security officer. He is unable to support the Appellant. Both aunt and uncle say that they been out of Somalia for twenty years.

18. Ms Ahmed submitted that the Appellant is not credible. In support of this she relied on him having entered the United Kingdom using a passport which did not belong to him and that he has given a false date of birth. I do not find that an adverse credibility finding should be made as a result of the Appellant having given a false date of birth. The Appellant in evidence stated that his date of birth is 5 January 1998. In other documents it is noted as 5 January 2000. The Appellant in his first witness statement said that his mother told him his date of birth was 5 January 2000. He maintained in cross-examination that this was his date of birth however he was given a date of birth of 5 January 1998 in Sweden and that has remained on the documents. Nothing turns on whether he was born in 1998 or 2000 because in either case the Appellant was not an adult when he arrived in Sweden and he is an adult now. I find that the Appellant has not intended to deceive the Tribunal or the authorities here or in Sweden in respect of his age. The fact that the Appellant used a passport that did not belong to him to travel to the United Kingdom in 2019 is capable of undermining his credibility. Ms Ahmed submitted that "aspersions must be cast" concerning his character in the light of the fact that he used a false passport. It is a matter which I have considered in the round when deciding what weight to attach to it.
19. Ms Ahmed submitted that it is unlikely that the Appellant is not in contact with his mother. However, this was part of the Appellant's evidence which was accepted by the First-tier Tribunal. There is no reason for me to go behind this. In any event, there is nothing inherently incredible about the Appellant having lost contact with his mother in the context of a civil war and the mass displacement of people. It is not implausible that the Appellant lost contact with his mother in the process of migration and has not resumed contact with her. The Appellant said that he visited the Red Cross in Sweden in person. It is reasonable to assume that the Appellant having lost contact with his mother has made efforts to find her. When assessing credibility, I take into account, in the Appellant's favour that he has not sought to conceal that he has been accommodated by relatives in both the United Kingdom and Sweden.
20. Ms Ahmed submitted that the Appellant has lived in Sweden and the United Kingdom where he has received support from his uncle and aunt which could continue. Ms Ahmed submitted that there are "gaps" in the evidence in relation to the aunt and uncle. While there was no oral evidence or detailed witness statements from either, I find that there is nothing implausible about either the aunt or uncle having dependants and or limited means. Ms Ahmed submitted that it was not credible that the

Appellant's aunt or uncle do not/have not financially supported the Appellant and would not be able to do so should he return to Somalia. There was a lack of evidence before the First-tier Tribunal from the Appellant's aunt and uncle and the Appellant's evidence about their circumstances was vague. These were matters that the judge was entitled to take into account. However, I have further evidence from the Appellant and his aunt and uncle. There is no evidence before me explaining why that evidence was not available before the First-tier Tribunal. However, in the light of the case of OA, it is reasonable for the Appellant to have produced further evidence on the issue of family and funds and Ms Ahmed did not object to this.

21. I have considered whether the Appellant has intentionally kept the evidence to a minimum and not asked his aunt and uncle to attend the hearing to give evidence because in truth they support him and would continue to do so. I have considered whether the aunt and uncle are not telling the truth about their means. They have accommodated the Appellant which clearly discloses a level of support and a willingness to help him. However, I find that it is credible that they would be able to offer minimum assistance comprising only accommodation. There is nothing implausible about a family or an individual not having sufficient earnings to support another person to live independently, whatever family ties exist. It cannot be inferred that a family member able to accommodate a relative would be able to support them to live independently by sending remittances abroad. I find that they would not be able to personally from their income send remittances to Somalia.
22. In the United Kingdom the Appellant receives a minimal income as an asylum seeker from the state. He received a similar income from the Swedish government. I accept that it is not a significant sum of money. It is reasonable to assume that accommodation is a significant outgoing in both the United Kingdom and in Sweden which the Appellant does not have to pay for. While I accept that he does not pay accommodation costs, it is reasonably likely that his income from the state is used for living costs and essentials because of the limited support his aunt and uncle are able and willing to give him.
23. Ms Ahmed drew to my attention to the Appellant having raised for the first time that his mother is a part of a different clan. While there is an absence of an explanation for the issue having been raised late in the day, I accept that in the light of OA it is reasonable to expect the Appellant to obtain further evidence addressing family/clan support. Having heard the Appellant giving evidence, I accept the evidence that the Appellant is not of the same clan as his aunt and uncle and that his aunt and uncle have not been to Somalia for 20 years. I accept that this may water down "the non- negotiable obligation" on the aunt and uncle and other family members of his mother's family, if they were in a financial position to help the Appellant.

24. Ms Ahmed submitted that it is highly likely that the Appellant has other relatives in Somalia. However, it was accepted by the First-tier Tribunal that the Appellant does not have family who would assist him in Somalia. There is no reason for me to go behind this finding.
25. Ms Ahmed submitted that the Appellant is a member of a minority clan which could offer him some assistance and that he has not demonstrated that he could not draw on clan support. Ms Ahmed submitted that the Appellant has shown a propensity to adapt in foreign lands and he has found the funds to travel and would receive remittances from abroad.
26. I take into account that the Appellant paid an agent to travel from Sweden to the United Kingdom in 2018. In 2019 he had funds to pay for a flight from Sweden to the United Kingdom. I have no evidence of the costs of either journey. I accept that the Appellant had a minimal income at this time. I find that the evidence does not establish that this income would enable him to have personally funded these journeys. From his evidence it is reasonably likely that his small income has been used for essential living costs aside from accommodation.
27. It was open to the Appellant to provide further evidence to explain how the trips were funded. I reasonably infer that there were some funds available to him over and above asylum support to enable him to fund the two journeys within a period of 14 months. I agree with Ms Ahmed that there is a gap in the evidence.
28. The First-tier Tribunal found that the Appellant would have the benefit of remittances from his aunt and uncle in the UK. Whether the Appellant will enjoy remittances remains a case specific question which will turn on the circumstances and means of those making remittances (see OA at [264]). I am satisfied that they personally are not in a position to provide the Appellant with funds. The Appellant has been found not to have nuclear family or close relatives in Somalia to assist with re-establishing himself. I take into account that his mother and siblings have been lost through migration and he is not in contact with them. However, what is clear is that the Appellant has family or clan links in Europe which I find are reasonably likely to be wider than just his aunt and uncle. I reach this conclusion because the Appellant has funded journeys to the United Kingdom in 2018 and 2019 and his mother was able to fund the family's migration in 2014. I find that the Appellant has diaspora links with family and or clan who have provided him with support and would be in a position to make remittances. I find that the Appellant has not been entirely honest or has given an adequate account of how trip have been funded.
29. The UT found in in OA that there is a "non-negotiable obligation to help one's kinsmen in times of need" and that "cultural imperative lies behind the flow of remittances into Somalia, ..... it also provides a culturally compelling reason for those still in Somalia to provide assistance to returnees". The UT found that there are extensive links between the diaspora and Somalis in Mogadishu and said that it is for the Appellant to demonstrate why he will not be able to draw on clan or network support. I

have taken into account that his mother is from a different clan and her family may be less likely to send remittances; however, the Appellant's aunt and uncle have helped him with accommodation and I find that a person or people (other than his mother, aunt and uncle) has/have helped him with the costs of journeys to the United Kingdom. His evidence is that he is not in touch with any of his father's family. However, I find that the Appellant has not disclosed the full extent of clan/family support available to him. I reasonably infer that the person or people who helped the family in 2014 and the Appellant in 2018 and in 2019 are reasonably likely to be able and willing to send remittances to him in Mogadishu.

30. It is accepted that the Appellant has never lived in Mogadishu. He is from a minority clan. I have taken into account what the Upper Tribunal found in OA at [241] that "namely as a general rule, minority clans may struggle to offer significant levels of practical assistance;" however, there is some assistance likely to be available (see [259]). Accordingly, I find that it is likely that there will be some clan support available to the Appellant. I accept that the links necessary to obtain this assistance must be established through an existing network (see [259]). Again I take into account the "non-negotiable obligation" and the "extensive links between the diaspora and Somalis in Mogadishu". While the Appellant does not have family who are physically in Somalia, as found by the First-tier Tribunal, he has family and diaspora links in the United Kingdom, Sweden and maybe elsewhere, which I find to be more extensive than he has admitted to. I find that it is reasonably likely that he has a network to identify links with his minority clan in Mogadishu to seek assistance with accommodation.
31. The Appellant has limited education. He has never worked. He left Somalia when he was a child. He has never lived in Somalia as an adult. He has never lived in Mogadishu. I take into account all the general prevailing circumstances in Mogadishu, including the volatile security situation and severe humanitarian conditions (see [222], [221] and [228] and [229] of OA). However, he is a young man in good health who I find has an existing network in Somalia and who will have access to remittances and some clan support.
32. I have carefully assessed the Appellant's circumstances applying the guidance in MOJ together with that in OA, specially that in [259] ("it is likely that the links within the clan necessary to establish assistance of this nature would be identified through an individual's network of support within Somalia, in the light of the role of network in Somali culture"). I have taken into account what is said about Somalian culture and network in OA. I find that the Appellant would have remittances from abroad and some clan support. He has received support in the United Kingdom and in Sweden and has not established that the same support would not be available to him. I find that the Appellant has not been forthcoming about the extent of his clan/family network. Taking into account MOJ in the light of OA, I conclude that relocation would not be unreasonable or unduly harsh in the Appellant's case.

33. I dismiss the Appellant's appeal on protection grounds.

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

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

Signed            Joanna McWilliam

Date 23 May 2022

Upper Tribunal Judge McWilliam