



IAC-AH-SAR-V1

**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/08898/2018**

THE IMMIGRATION ACTS

**Heard at Birmingham CJC
On the 2nd November 2021**

**Decision & Reasons Promulgated
On the 22nd April 2022**

Before

**UPPER TRIBUNAL JUDGE MANDALIA
DEPUTY UPPER TRIBUNAL JUDGE JUSS**

Between

**JZ
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mark Allison (Counsel)

For the Respondent: Mr C Bates (Senior HOPO)

DECISION AND REASONS

The Appeal

1. The Appellant is a male, a citizen of China, and was born on 21st January 1981. He appealed against the decision of the Respondent dated 4th July 2018 to refuse his claim for international protection. The appeal was dismissed by First-tier Tribunal Judge Kainth for reasons set out in a decision promulgated on 7th January 2019. The Appellant applied for permission to appeal to the Upper Tribunal. He claimed the First-tier

Tribunal Judge had not made material findings of fact and had not dealt adequately with the suicide risk if the Appellant were to be returned to China. Reliance was placed upon the decision in **J v. SSHD [2005] EWCA Civ 629** and the decision in **Y and Z (Sri Lanka) v. SSHD [2009] EWCA Civ 362** in relation to the risk of suicide. The appellant was granted permission to appeal to the Upper Tribunal by First-tier Tribunal Judge Povey on 6th February 2019.

2. The appeal was heard by Upper Tribunal Judge Gleeson on 18th March 2019. In paragraph [5] of her decision, Upper Tribunal Judge Gleeson noted the Respondent accepted the decision of Judge Kainth contained a material misdirection of law in relation to the test for suicide risk, having regard to the medical evidence that the Appellant has post-traumatic stress disorder, and major depressive disorder. Upper Tribunal Judge Gleeson also referred to the decision of the Supreme Court in **KV (Sri Lanka) v. SSHD [2019] UKSC 10** regarding the weight to be given to Istanbul Protocol compliant medical evidence. She noted the Appellant has three scars on his head which Dr Arnold considered to be highly consistent with the appellant's account of abuse in his home area. Upper Tribunal Judge Gleeson recorded, at paragraph [7] of her decision, that the Appellant's case is that given his vulnerability and mental health issues, it would be unduly harsh or unreasonable to expect him to relocate within China, away from the risk in his home area of Shandong, a north-eastern province on the Yellow Sea. She noted, at paragraph [8], the Respondent's counter argument that given the enormous scale and population of China, even if the Appellant were at risk in his home area, he would have an internal relocation option available to him which it would not be unduly harsh for him to exercise. Upper Tribunal Judge Gleeson set aside the decision of First-tier Tribunal Judge Kainth and directed that the decision will be remade in the Upper Tribunal.
3. Upper Tribunal Judge Gleeson also directed that the appellant was, *inter alia*, to file and serve any additional evidence on which he wishes to rely, within four weeks. The matter was then listed for a Case Management Review hearing before her on 24th May 2019. On that occasion Counsel for the Appellant explained the difficulties that were being experienced in obtaining the Appellant's general medical practitioner records, and the delay in commissioning a psychiatric report. Upper Tribunal Judge Gleeson directed, *inter alia*, that the Appellant shall file and serve any additional evidence on which he wishes to rely, by 1st September 2019. The Appellant's representatives applied to vary the directions and an extension of time was granted so that the Appellant had until 7 October 2019 to file and serve any further evidence. The appeal was listed for a resumed hearing on 15th November 2019. The appellant's representatives applied to adjourn that hearing but that request was refused by the Upper Tribunal Lawyer on 6th November 2019. When the matter came before Upper Tribunal Judge Gleeson on 15th November 2019, she noted that a referral had been made to the Competent Authority under the National Referral Mechanism ("NRM") and that on 3 September 2019, the appellant had received a positive 'Reasonable Grounds' decision. She also recorded that

the question of trafficking is a 'new matter' and the respondent consented to the Upper Tribunal considering that matter. She noted that an appeal before the Supreme Court - MS v SSHD, may have an impact on the weight to be given to the 'Reasonable Grounds' decision made in the NRM process, and to any 'Conclusive Grounds' decision the Competent Authority may make. She adjourned the resumed hearing with directions. The matter was listed before Upper Tribunal Judge Gleeson on 16th December 2019 and on that occasion she directed that the resumed hearing of the appeal would be listed on 24th January 2020, with a further case management review hearing on 10 January 2020.

4. The Competent Authority reached a negative 'Conclusive Grounds' decision that on 18th December 2019, that the respondent undertook to reconsider. The Case Management Review hearing that was to have taken place on 10 January 2020 was deferred to the first week of April 2020 to allow for the outcome of the reconsideration. There was a further delay because of government restrictions announced in March 2020 to deal with the Covid-19 pandemic. On 3rd August 2020, a further Case Management Review hearing was held, and Upper Tribunal Judge Gleeson noted the reconsideration of the 'Conclusive Grounds' decision had not been completed. The Presenting Officer on that occasion offered an undertaking that the Respondent would complete the delayed reconsideration within 30 days. Upper Tribunal Judge Gleeson noted:

"6. However, this appellant's circumstances have been further complicated since the adjournment. On 6 July 2020 he was involved in an altercation in Chinatown in Birmingham. He was found at the safe house where he is living, with stab wounds, and taken to hospital but he was also arrested.

7. The basis of that arrest is unclear at present, although Duncan Lewis are in contact with the appellant's criminal solicitors to try to find out. It is likely that the appellant will need to make further submissions to the respondent clarifying the circumstances in which this incident took place: his international protection solicitors do not rule out the possibility that the attackers were connected to his former traffickers."

5. Upper Tribunal Judge Gleeson directed, *inter alia*, that no later than 31 August 2020, the Appellant shall file and serve an updated witness statement dealing with the events of 6th July 2020, and shall, with his solicitors, use his best endeavours to provide the Upper Tribunal with full information about the criminal charges which are said to be pending against him arising out of that incident.
6. A further hearing took place before Upper Tribunal Judge Gleeson on 22nd December 2020. She noted on that occasion, the appellant had served a witness statement on 1st September 2020 and the Respondent had made a fresh 'Conclusive Grounds' decision that is negative. She recorded, at paragraph [5] of her decision, that the appeal is now ready for listing and that counsel for the appellant (Mr Allison) had told her that on medical advice, the appellant would not be giving evidence at the resumed

hearing. She directed the resumed hearing be listed as a face-to-face hearing on the first available date after 15th March 2021.

7. On 9th February 2021, Upper Tribunal Judge Gleeson varied her previous directions following receipt of a letter from the Appellant's representatives indicating difficulties being experienced by the Appellant in securing the necessary expert evidence. She directed that the Appellant shall no later than 3rd July 2021, file a bundle containing all documents on which he wishes to rely at the resumed hearing, and that the resumed hearing will be listed for a face-to-face hearing on the first available date after 3rd August 2021. It appears that the Appellant's solicitors lost contact with the Appellant and by letter dated 29th July 2021, they sought a further variation of the directions previously made. The Upper Tribunal Lawyer subsequently varied the directions so that the Appellant had until 16th August 2021 to file and serve the bundle relied upon.
8. It is against that background that the resumed hearing of the appeal was listed before us.

The Appellant's Claim in summary

9. The essence of the Appellant's claim is twofold. First, that he has a well-founded fear of persecution in China on account of a non-Convention reason, because he has borrowed money from a loan shark for the purposes of coming to the UK. Given that he is unable to pay the money back to the loan shark, he now fears that will be killed by him. Second, that he was involved in a land dispute with the local authorities who want to demolish his family house, and he now fears that upon return he will be killed by the local authorities.

Immigration History

10. The Appellant arrived in the UK on a two-year multi visit visa on 27th January 2018. Three months later on 26th April 2018, he was arrested by the police on suspicion of working illegally running a brothel. He denied this and no further action was taken by the police. However, he did accept that he had been employed at the premises as a cleaner. Following his arrest, on 3rd May 2018, he claimed asylum. A screening interview was completed on 21st May 2018 whilst the Appellant was detained. On 4th June 2018 a Rule 35 report was obtained, and the author of that report noted the Appellant has a scar on his forehead and on his left ear-lobe. A substantive interview was completed on 22nd June 2018 and further representations were received by the Respondent from the Appellant's representatives on 3rd July 2018.

Evidence and Hearing

11. At the hearing before us on 2nd November 2021, we began by ensuring as a preliminary matter, that the Appellant and interpreter both spoke and understood each other. We then explained the conduct of the proceedings

to the Appellant. The parties' representatives agreed before us that there were three sections to the Appellant's bundle. There was part A (369 pages); a part B (objective materials); and a part C (material relating to NRM). We confirmed that we had a skeleton argument from Mr Allison of Counsel. The Tribunal was apprised by Mr Allison of the fact that the Appellant wished to give evidence, notwithstanding his documented memory problems, provided that an accommodation was made by the Tribunal with respect to his condition. Mr Allison identified the accommodations required and we accepted that questions would be kept to a minimum. Since the Appellant had a tendency to become quite emotional we agreed with Mr Allison that there may be a need for regular breaks, which the Tribunal would accommodate. The Appellant was given appropriate breaks when he was giving evidence and when he was visibly distressed.

12. Before turning to the evidence of the appellant himself, we note that the Appellant relies upon the evidence that appears at pages 34 to 165 of the Appellant's bundle. We have before us two reports prepared by Dr Paul Foster, a Consultant Psychiatrist. The first of his reports is dated 29th November 2018 and the second is dated 4th November 2019. Dr Foster met with the Appellant on 23rd November 2018. The background and the Appellant's personal circumstances are recorded in paragraphs [7] to [32] of the first report. A mental state assessment revealed that the Appellant appeared anxious and low in mood. He was tearful on several occasions during the meeting and reported sleep disturbance. Dr Foster recorded, at paragraph [38], that the Appellant denies any present suicidal ideation but stated that he would not be able to survive back in China as his life would be in danger from state officials, the police and loan sharks. Dr Foster concluded that the Appellant is suffering from PTSD and 'Severe Depressive Episode'. He states the Appellant has been exposed to a stressful situation of an exceptionally threatening nature, namely being attacked by men who came to bulldoze down his family home and witnessing his brother also being attacked. Dr Foster expresses the opinion that the Appellant requires treatment for PTSD and comorbid depressive illness. He states that specialist psychological therapy, either trauma focused cognitive behaviour therapy, or eye movement desensitisation and reprocessing therapy, is required. Dr Foster states that the Appellant will require ongoing antidepressant and antipsychotic medication. The prognosis with treatment will depend on the appellant receiving skilled and timely psychological help. Dr Foster expresses the opinion that without treatment the appellant's mental health is likely to deteriorate with an increased risk of attempted and completed suicide. Dr Foster considers that removing the appellant back to the environment he associated with the violent incident, is likely to re-traumatise the appellant and make his mental health problems worse. As to the appellant's ability to provide consistent and accurate detail regarding specific incidents, Dr Foster states that it is plausible that the appellant has memory difficulties as a result of traumatic experiences in China, and in immigration detention in the UK.

13. In his second report Dr Foster confirms that he met with the appellant again on 23rd October 2019 for an interview that lasted 90 minutes. The appellant could not recall their previous meeting. Dr Foster states there is continuing evidence the Appellant continues to suffer with features of PTSD and a depressive illness as described in his previous report. He states the appellant's mood remains significantly low with continued feelings of hopelessness, lack of interest and episodes of tearfulness. Dr Foster expresses the opinion that the Appellant's medical conditions are consistent with his account and history and raise the possibility that he was trafficked to the UK and controlled by a gang operating in China and in the UK. Dr Foster maintains the appellant requires ongoing help for his mental health disorder. That will consist of prescription monitoring of antidepressant medication and the provision of psychological therapy. The recommended treatment for PTSD is said to be trauma focused cognitive behaviour therapy and that requires specialist psychological therapy of up to twelve sessions, although the appellant may require longer term treatment depending upon his response. Dr Foster states that if the appellant were returned to China and was unable to access treatment, his PTSD and associated depressive symptoms are likely to continue with a risk of deterioration in his mental health with an increased risk of self-harm and suicide. Dr Foster expresses the opinion that the appellant was able to understand, recall, weigh up and communicate regarding the giving of evidence. He has the capacity to give oral evidence at a Tribunal, but his concentration and memory have been affected by the traumas that he has experienced. He states that given the appellant suffers with depression and PTSD, particular allowances should be made to assist the appellant giving evidence as the stress of the hearing may impair his capacity to give evidence. He states that both depression and PTSD have been shown to be associated with a pattern of 'over general memory' in which individuals have difficulty achieving memories of specific events. That may account for the appellant's difficulty in providing a 'credible' and completely consistent account. Dr Foster considers the appellant to be at high risk of self-harm if he is removed from the UK.
14. Dr Foster notes the appellant appears to have self harmed on several occasions whilst he was detained. Given that those attempts were linked to his possible return to China, Dr Foster expresses the opinion that this the suicide risk will increase on learning that his appeal has been refused, during the removal process, and on arrival in China.
15. We also have before us a report prepared by Dr Frank Arnold dated 28th November 2018 following an examination of the Appellant on 15th November 2018. Dr Arnold refers to the background and history provided by the Appellant at paragraphs [1] to [29] of his report. He records a number of scars on a 'Body Map' that is at page 82 of the appeal bundle. Dr Arnold states that the Appellant attributes scars S1 to S3 to blows to the head and states "*They are highly consistent with this cause*". He states the scars have the appearance to be expected after contused lacerations caused by blows to the head with a blunt instrument. He states that "*..The alternative possible causes - accidental injury from three*

separate objects falling on him, or from impacts of his head against hard objects or combinations thereof - would be less medically plausible, given that those scenarios would appear to require three rather than one episode.". Scar 4 is said to be "consistent with" an injury sustained while receiving the blows resulting in scars S1 to S3. The scars in group 5, were attributed by the appellant to mutual dares in childhood. The lesions are described as diagnostic of deliberate burns with lit cigarettes but were not attributed to any malign cause. Scars S6 to S8 are said to be diagnostic of self-harm by cutting. Dr Arnold records that two such episodes are confirmed in the IRC healthcare centre notes on 6th and 16th June 2018. The scars appeared to be very nearly completely healed as would be expected from their ages. The scars referred to as S9 and S10 are said by the appellant to arise from blows sustained during the attack and Dr Arnold considers them to be 'consistent with' that cause.

16. We also have a report from Dr Juliet Cohen dated 29th July 2021 following a telephone interview with the appellant on 19th May 2021 over two hours. Dr Cohen reports that the appellant meets the diagnostic criteria for PTSD and also has symptoms of depression. She states that from the medical records and reports it is clear that the appellant's PTSD began before an assault in July 2020. His grief for the deaths of his mother and brother is also a contributing factor to his depression. Dr Cohen assesses the appellant's suicide risk as moderate. She states, at paragraph [55], that his only protective factors appear to be his contacts with his solicitor and the fact that he is in treatment. In her opinion, he is vulnerable to sudden impulsive acts and to exacerbation of his suicidal thoughts if he is placed under further stress. In her report, Dr Cohen refers to the further scars that have arisen since the report of Dr Arnold in 2018. She refers to the scars on the appellant's neck, elbow and finger and concludes that taking the five scars as a group, in her opinion, the appearance is typical of the attribution of assault with a knife. As for the Appellant's treatment needs, Dr Cohen notes the appellant is currently taking an antidepressant. She noted the appellant's depression has become more severe recently and that he continues to self-harm by cutting. The appellant was advised to see his GP for a treatment review. She states the appellant needs medication to achieve better symptom relief and needs specialist psychological therapy for his PTSD. Dr Cohen expresses the opinion that there is a real risk the Appellant would attempt suicide if removed to China. She considers there to be a significant risk even in the UK, due to the severity of the Appellant's mental health conditions and other risk factors. At paragraph [78] of her report she expresses the opinion that the appellant's mental health is in decline, and he needs further treatment. Further stressors such as removal to China would significantly increase his suffering and cause a serious rapid decline in his mental health. Dr Cohen state that for any treatment to be effective the appellant needs to have both medication and specialist psychological therapy in a safe and supportive environment. She considers the therapy needed is likely to be prolonged and estimates a minimum of two years. She states that given specialist treatment in a safe environment, there is a good chance of the

appellant recovering to the extent of being able to lead an independent life and support himself. She too expresses the opinion that PTSD, depression and a head injury are significant factors in affecting memory and recall. She states a person seeks to avoid the distressing emotions associated with the traumatic experience by avoiding thinking or talking about it. They may skip over parts of the experience when relating to it or blank it from their memory.

17. We record at this point that we have also been provided with two reports prepared by Dr Stephanie Gordon in which she considers the background material and draws upon her direct experience in China, as well as scholarly publications and materials from other sources. We also have a report from Dr Aidan McQuade, a former Director of Anti-Slavery International regarding the credibility of the appellant's account of being trafficked. For the avoidance of any doubt although we do not burden this decision with what is said in those reports, we have carefully considered the reports and have had regard to the opinions expressed in considering the core of the appellant's account and in reaching our overall findings and conclusions.

The evidence of the appellant

18. Mr Allison noted the Appellant's statement dated 16th August 2021 that is at pages 8 to 18 of the Appellant's bundle is unsigned. He confirmed that the statement has been read to the Appellant in Mandarin and the statement was signed by the Appellant before us. The Appellant confirmed that he wished to adopt that statement. He was taken to page 22 of the bundle where he confirmed his signature on the statement dated 1st September 2020. He also confirmed his signature on the statement of 8th November 2019 at page 33 of the bundle. The appellant adopted the statement as his evidence-in-chief.
19. He was asked further questions by Mr Allison. In his evidence-in-chief, the Appellant went on to confirm that he lived in Liaoning province. He was then asked about the incident regarding the car of a government official which he had described as having come from another area. He said that incident had occurred when he was living in the Shandong province, with his wife and her family. He was asked why he thought that the number plate on the car related to an officer from Liaoning and he said that the village was very small and normally no one else came from outside. Therefore, when he saw the number plate from Liaoning, he was very frightened and when he saw two people step out of the car and walk towards the village he knew the officer, "Liu" because he was able to recognise him. The Appellant said he, had previously seen 'Liu' in the Liaoning province and that is how he could recognise him. The Appellant said that when he saw the number plate begin with 'Liao', he was very frightened. The Appellant explained that the letter "C" on the numberplate stood for 'Anshan'. It suggested that the car came from

Anshan in Liaoning. When asked whether he could estimate the distance between his home in Liaoning and his wife's home in Shandong, he said that he lives in Anshan city in Liaoning province and that if he needed to go to Shandong, he needed to cross the sea. The length of the journey all depended on the mode of transport. In the past he had taken a train, and this took him eight to nine hours. When asked by Mr Allison how he got from his home in the Liaoning province to his wife's home in Shandong, the Appellant said that he started from Anshan and arrived in Dalian city, and from there he would get on a ship or a ferry to go to Shandong

20. When asked whether he had been registered in the hukou system in China, he said that he had registered when he got married and that is how he could be located through the system by officials. Asked who was able to locate him, he said it was the police officer.
21. The appellant was referred to the agreement that he refers to in paragraphs 7 to 10 of his statement dated 16th August 2021. The appellant said that the individual that we shall refer to as [LC] in this decision, is his wife's schoolmate. The Appellant said that he asked his wife to find [LC]. The appellant was referred to the document that appears at page 273 of the bundle. Mr Allison asked the appellant if he could identify that document. The Appellant said that this was the guarantor certificate or agreement. The Appellant confirmed that document had been included in the bundle by his solicitors. He said that his wife had sent the document to his solicitor. The Appellant was referred to paragraph 39 of his witness statement dated 16th August 2021 in which he claims that he no longer has contact with his wife. The Appellant said that it is true that he had now lost contact with his wife. He said he lost contact with his wife about a year ago. Asked why, the Appellant said that he had tried to call her, but her mother had answered the phone and said he should never try to call his wife again. The Appellant then had to take a five-minute break to have some water and compose himself.
22. Having already heard extensive evidence in chief, we invited Mr Allison to identify the further areas he intended to address with the Appellant noting his submission to us at the outset of the hearing, that one of the adjustments required in light of the identified vulnerability is that questions must be kept to a minimum. We were concerned that the Appellant was upset and prolonged periods giving evidence that ought properly to have been set out in a witness statement, was having an impact upon him. Mr Allison asked the Appellant about his statement of 1st December 2020 regarding an incident in July 2020 when he was attacked with a knife and sustained stab wounds and was taken to hospital. He said that this did indeed happen. He was asked whether there had been a subsequent court case relating to that incident. He said that this also was true. He was asked about the current position in relation to that, and he said that the police had said that both him and his assailant were at fault and both of them were arrested. He said that he had attended a hearing before a Court, and he had entered a 'not guilty' plea'. The solicitors representing him in those proceedings have informed the Appellant that

according to CCTV footage, the other individual had come from behind and hit the Appellant. The Appellant said that another hearing is due in March 2022, but he could not remember which court he is required to attend before.

23. At this stage, Mr Bates intervened to say that he could confirm that according to records the Respondent has access to, the Appellant had been arrested on 7th July 2020. He had been remanded on bail. There were conditions attached, including a prohibition on his contacting his assailant. There were also reporting requirements. There had been a court appearance at Birmingham Magistrates' Court on 8th February 2021 and on 10th March 2021, he had been remanded on bail by Birmingham and Solihull Magistrates', with the case transferred to the Crown Court. On 21st April 2021 he was remanded by the Birmingham Crown Court to appear on a date that is not referred to in the PNC.
24. We expressed some surprise that the Appellant and his representatives have not provided the Tribunal with any information available to the Appellant relating to a criminal prosecution brought against him, and the other individual involved. It appeared to us that the Appellant's account of events as set out in his witness statement was capable of being corroborated by any statements made by the Appellant or any witnesses, or during any interview under caution. We gave Mr Allison an opportunity to discuss that issue with the Appellant. At this stage, at 12:43pm, Mr Allison made an application for an adjournment to enable the Appellant to obtain further evidence regarding the criminal prosecution. Mr Allison submitted there is evidence that can potentially corroborate the Appellant's account of events. He was however unable to provide us with any information regarding the steps taken by the Appellant's representatives to obtain information from those who represent the Appellant in the criminal proceedings. Mr Allison submitted the Appellant was represented previously by a duty solicitor and it is likely that relevant evidence is now held by the solicitors defending the Appellant before the Crown Court. Mr Allison submitted that his instructions are that the Appellant was interviewed and gave his account of events to the police. Mr Allison was unable to identify who represents the Appellant in the criminal proceedings or what evidence they might hold that is potentially relevant to this appeal.
25. We refused the application for an adjournment and gave brief reasons for doing so. In reaching our decision we reminded ourselves that in Nwaigwe (adjournment: fairness) [2014] UKUT 000418 (IAC), the Upper Tribunal held that in most cases the question will be whether the refusal of an application for an adjournment deprives the affected party of their right to a fair hearing. We have already set out at some length the procedural history of this appeal. Since the decision of the First-tier Tribunal was set aside there have been a number of case management hearings and directions issued by the Tribunal. In her order dated 3rd August 2020, following a hearing at which the appellant was represented, Upper Tribunal Judge Gleeson referred to the complication added by the incident that

occurred in July 2020. Upper Tribunal Judge Gleeson gave directions for the appellant to file and serve an updated witness statement dealing with the events of 6th July 2020 and directed that the Appellant, with his solicitors, use his best endeavours to provide the Upper Tribunal with full information about the criminal charges which are said to be pending against him arising out of that incident. At a subsequent case management review hearing on 22nd December 2020, at which the appellant was again represented by his current representatives, Upper Tribunal Judge Gleeson recorded that the Appellant had served his witness statement dated 1st September 2020. She noted the appeal is now ready for listing for substantive remaking. The relevance of any material and information held by solicitors acting on behalf of the Appellant in the criminal proceedings had been identified during the case management review hearings. It must have been obvious to those that represent the Appellant, in light of the account he sets out in his witness statement, that there may be material disclosed as part of the prosecution against the Appellant, which is capable of corroborating his account of events. No explanation is provided for the failure to ensure any relevant evidence was properly before the Tribunal. Despite the very significant passage of time since the issue first arose, in the end, Mr Allison was unable to confirm whether the identity of the solicitors representing the Appellant in the criminal proceedings was known, what steps had been taken to obtain information from them, or whether any relevant evidence or information is held by them. An adjournment in those circumstances would have served no useful purpose because we could not be satisfied that there is any relevant evidence or information that can be provided within a reasonable timeframe.

26. Following the refusal of the application for an adjournment, Mr Allison continued with his examination-in-chief asking the Appellant whether he had been interviewed in relation to that court case. The Appellant confirmed that was the case. He went on to say that he had answered all the questions he was asked. He was then asked, in a leading question, whether he had explained that this incident in which he was attacked, was linked to his traffickers. He said that he had given that explanation.
27. In cross-examination by Mr Bates, the Appellant was asked what he had said to the police in relation to his fight with his alleged traffickers. The Appellant explained that when the police took him into custody from the hospital he was interviewed. He wanted the police to know that there must be some connection between his attacker and his having been trafficked because, of all the people there, he was the only one that had been attacked. He said the individual had driven the car from Cheltenham to Birmingham, and there must be some connection because the Appellant did not know that person. Mr Bates asked the Appellant how he knew that this man had driven from Cheltenham to Birmingham. The Appellant said that someone had told him this later on and had even said that he was accompanied by another female. He was asked again how he knew that this man had driven from Cheltenham to Birmingham. The Appellant said that a lot of people in the Chinese community knew about this incident

and someone who knew the assailant had said that he lived in Cheltenham. Even if he did live in Cheltenham, inquired Mr Bates, how would the Appellant know that he was looking for the Appellant. The Appellant said that a normal person would not go out at night with a knife, but this is what this man had done. There were a lot of people in the square at the time. The Appellant was with someone who he refers to as his sister, and this man had just attacked him from behind. When the Appellant fell down he saw this man holding a knife with a plastic bag and he had fought back to save his life. He said that he could see there was blood on his hand, on his neck, and on his arm and he had shouted out that this man was holding a knife and that someone should call the police. The assailant had backed off and said that sooner or later he would kill the Appellant. The Appellant was very frightened and so ran home.

28. When asked by Mr Bates whether he had told the police about his *We Chat* account, the Appellant said he had not done so. Mr Bates explained that in his witness statement, the Appellant claims he suspects the person who attacked him was on some of the group chats, and he posted adverts on *We Chat* looking for females to work for him. The appellant suspects that this man had become aware of the Appellant from his *We Chat* profile. The Appellant said that he could not say this because a lot of the time people use a false name inside that group. He was then asked whether, by saying this, he meant that, he did not think that this man knew anything about the Appellant from the *We Chat* group. The Appellant confirmed that his assailant did not know about the Appellant from the *We Chat* group.
29. The Appellant was then told that Mr Bates was going to ask some further questions about what had happened to the Appellant when he was living in China. Mr Bates began by asking the appellant about the incident when people had attended to demolish the family home. The Appellant confirmed that he and his brother had been injured and during the incident, the Appellant had injured someone using a log of wood. He was asked whether, given that he and his brother were so badly injured with the Appellant even needing stitches, he had informed the police about the attack. The Appellant said that he had not done so although his family had given statements to the police about the incident. He confirmed that statements were given by his mother, his father, and his second brother. When asked why he himself had not given a statement as one of the victims, the Appellant said that on the night when the police came, they said that if the Appellant needed to have treatment, he should go and get treatment. The Appellant said that during the incident his brother had been kicked to the floor and did not appear to have any specific injuries. However, later at night, according to his mother, the Appellant's brother's stomach was getting bigger. The family were very far from the hospital. In the morning, his mother told the Appellant that his brother had died. The Appellant said that he had tried to defend his brother when he was being beaten up by hitting the assailants with a log of wood. He was scared about what had happened and so he had gone to his wife's house in Shandong, and he had not returned back to the family home. The

Appellant said that there was a rumour that the person he had hit with a log of wood, was a government official and the government had wanted the land to be taken by force.

30. The Appellant said that the police did not speak to him. When asked whether he was afraid of being arrested because he hit someone with a log, the Appellant replied "yes". He went on to say that when he left China his brother was living in the family home, and is still living there, but the government has stopped the utilities to the house, like the electricity and the water supplies. It was put to him that he could not be at risk because the incident took place in 2014 and he left in 2018, and during that time the family had been living in the same house. The Appellant explained that after his big brother died, according to his mother, the police came to the family home, but they said that they did not have enough evidence. Other houses around there were also being demolished by the authorities. The Appellant said that his brother who is younger, is still there, but the house is in very poor condition. They own two houses in Liaoning. He was then asked whether he had been in contact with his brother whilst the Appellant has been living in the UK and he said that he had not. He was asked whether he had been in contact with any of his friends while living in the UK, and he said that he does not have any friends because he lives so far away.
31. Mr Bates then went on to ask the Appellant about the money he claims to have borrowed. He was asked why his wife's friend would put up their property as a surety for the Appellant's loan. The Appellant said that this was because they came from the same village. He was asked about the loan agreement which had been sent to his solicitors and whether that was the original or a copy. He confirmed it was a copy. His attention was directed by Mr Bates to page 276 of the Bundle which is a translation of the loan agreement. It was put to the appellant that the document confirms that [LC] is responsible for paying the loan. Given that this was so, Mr Bates wanted to know why this would be a problem for the Appellant. The Appellant explained that this was because [LC] was the guarantor. Mr Bates suggested to the Appellant that the document records a loan made by an individual that we shall refer to as [WJ] to [LC], and not a loan to the Appellant. The Appellant said there had been another agreement between the Appellant and [WJ]. The Appellant said that he had asked for a copy of that agreement, but he was not given one.
32. Mr Bates then asked the Appellant whether [WJ] had given 350,000 Yuan to [LC]. The Appellant said this was not correct. It was false. The Appellant was asked why the document states a false loan amount. He said that this can happen when you are dealing with loan sharks. He did not know the details. All he knew was that he signed an agreement with [WJ] and [WJ] arranged for his flight ticket to the UK. [WJ] had told him that there was a company in the UK that he owned, which would then take care of him. Referring back to the agreement, Mr Bates asked whether his wife's friend had ended up losing their house. The Appellant said that he did not know because he had lost contact with her.

33. Mr Bates asked the Appellant if he had ever tried to contact his wife again after he had spoken to his mother-in-law. The Appellant said he had done so but it was “an empty number and I was not able to get hold of her”. He did not even know whether she was still living where he had left her. His mother-in-law had spoken to him in a very harsh way. However, the last time he had spoken to his wife she was living where they had lived together in Shandong.
34. The Appellant went on to explain that when he arrived in the UK he had £2,000. [WJ] had given him that money at the airport. The Appellant ‘s was told that when he arrived in the UK he would need to give tips to people who pick him up from the airport and would need some money to live on. When asked how much he gave by way of tips to the people who collected him from the airport, he said that in 2018 he had given between £300 to £400. He went on to say that immediately after arrival in the UK he was taken to a restaurant, and the following day he was told to go and buy cigarettes and alcohol for the people that he was meant to be giving money to. He was asked how much longer the remaining £1,600 had lasted. He said that he worked for about a month in the restaurant. However, the chef hit him and made his foot swell, and he was then unable to work. He was then taken to another place and there he spent the money until he had some £300 to £400 left that he had hidden in the sole of his shoe.
35. Mr Bates then asked the Appellant about paragraph 29 of his statement dated 8th November 2019 in which he claims that following his release from immigration detention, a friend agreed to accommodate him in Wolverhampton. The Appellant explained that he met a male whilst he was in immigration detention. That male had introduced the appellant to his previous boss, who had allowed the appellant to stay with him. The appellant was referred to paragraph 29 of his statement in which he states that “.. *A friend in China knew her and gave me her details...*”. The appellant maintained that he was introduced to the person who accommodated him by the male that he met in the immigration detention centre. He confirmed that the contact details for the individual were not given to him by a ‘*friend in China*’.
36. The Appellant said that when he was staying at various places and addresses, controlled by the traffickers, he just hid some money. He was referred to page 362 of the bundle where there is a transcript of a police interview. During the interview, the Appellant stated that he cooked for the girls working in the flat where he was found, and in return they sometimes gave him £20. The appellant had confirmed in that interview that when he was found he had £700 to £800 in his jacket pocket. He claimed that he had accumulated that money since ‘August last year’ and had some money from a Casino; £100 or £200. Before us, the Appellant said that the £600 that he had, was money he got from gambling. The rest of it was him saving the money little by little. He said that “if I met some good girls they would give me some tips because normally they came at the weekends to collect money and at the weekends I would hide

my money". He went on to say that of the money he had been found with, £600 had been acquired through gambling in Wolverhampton at a casino. When asked how often he went to the casino in Wolverhampton he said it was only once or twice. He went alone. When pressed, he said that he had in fact gambled only once and made £600.

37. Finally, Mr Bates asked the Appellant about the medical treatment he is receiving. He said that he was on tablets. When asked what these tablets were for, he said they were to help him "go to sleep" and that "otherwise I will hear voices and I will try to commit suicide". He confirmed that he did not take tablets when he was in China.
38. In re-examination the Appellant was asked if he knew the name of the tablets he takes. He said he takes Sertraline. He said that the dose that he was taking had increased. He thinks that in the past he took 45 mg tablets, but now he is taking 100 mg tablets. The dose had increased about two months ago. Mr Allison then asked the Appellant about the fight in Birmingham that had led to the court case. Mr Allison pointed out that in his statement, the Appellant said that the person he suspected of having assaulted him had become aware of the Appellant's intentions and of his *We Chat* profile. In cross-examination, the Appellant said that this person did not know anything about him from the *We Chat* group. Mr Allison asked the Appellant if he is aware that the account given in cross-examination is different to what is said in the witness statement. The Appellant said that he could not remember. All he could say is that if his assailant did not know of him, he would not have come over from Cheltenham just to attack him in Birmingham. He said there must have been a reason. He was carrying a knife after all. In fact, he had used the knife to cut the Appellant's neck.
39. At the end of the evidence, we directed that the parties should make their closing submissions in writing. We directed that the Respondent would file and serve her written submissions within 14-days and the Appellant would file and serve his written submissions in reply within 14-days thereafter. We reserved our decision and informed the parties that our decision will follow in writing once we have had the opportunity of considering the evidence and the parties written submissions.
40. Mr Allison wished to renew his application for an adjournment, but we indicated that we did not intend to revisit our decision to refuse that application. We emphasised once again that a statement from the Appellant's solicitor would be unlikely to assist us. We had already decided the application made by Mr Allison on the basis of the submissions made to us. Mr Bates objected to us considering further material after the Tribunal has heard the evidence relied upon. He submits the Tribunal should only consider the written submissions that are to be provided and the appellant should not be permitted to file further evidence. We agreed with Mr Bates. We informed the parties that we will determine this appeal upon the evidence that is already before us and the written submissions that we are to receive.

The Parties Written Submissions

41. We have received written submissions from both parties. They are a matter of record and there is nothing to be gained by recording the submissions in this decision. In summary, in his written submissions of 12th November 2021, Mr Bates refers to the decision of the Upper Tribunal in SB (vulnerable adult: credibility) Ghana [2019] UKUT 00398 (IAC). This made three points. First, the fact that a judicial fact-finder decides to treat an Appellant or witness as a vulnerable adult does not mean that any adverse credibility finding in respect of that person is thereby to be regarded as inherently problematic and thus open to challenge on appeal. Second, by applying the Joint Presidential Guidance Note No 2 of 2010, two aims are achieved. First, the judicial fact-finder will ensure the best practicable conditions for the person concerned to give their evidence. Secondly, the vulnerability will also be taken into account when assessing the credibility of that evidence. Third, the guidance makes it clear that it is for the judicial fact-finder to determine the relationship between the vulnerability and the evidence that is adduced.
42. Mr Bates relies upon the matters set out in the respondent's decision of 4th July 2018 to refuse his claim for international protection, and the matters set out in the decisions of the Competent Authority of 26th November 2019 and 9th November 2020 (which appear in the Appellant's bundle at part C).
43. Mr Bates addresses the separate strands of the appellant's claim. As to the 'Land Dispute' he submits it is entirely understandable that any reasonably competent law enforcement agency would seek to speak to the appellant as both a participant, witness and injured party. He submits the Appellant's desire to evade the police, seemingly therefore, flows from a fear of prosecution rather than persecution. He notes that in any event there is an absence of any documents relating to proceedings against the appellant in China. Mr Bates also refers to the absence of evidence to substantiate the Appellant's claim that his eldest brother died as a consequence of the incident. He submits there is no death certificate nor any evidence of formal registration of the death. He submits the Appellant's claim that the police officer, 'Liu', subsequently traced the appellant to his address in Shandong via the Hukou registration system lacks plausibility, and in any event, establishes nothing more than the police wishing to speak to the appellant about an incident that resulted in at least one fatality and arguably, multiple assaults. Mr Bates submits the Appellant has failed to establish, even to the lower standard, that he is of any genuine and real risk from the Chinese authorities. The appellant's own evidence is that following the incident, his father and brother were able to continue residing in the family home. The incident occurred in 2014 yet the Appellant was able to remain in China until his departure in January 2018. Mr Bates submits that whilst the medical evidence supports the appellant's claim that he suffered a head injury, that is not to say that the injury or confrontation took place at the time and in the manner/context claimed by the Appellant.

44. As for the Appellant's claim to be at risk upon return as a victim of trafficking and because of a loan from [WJ], to travel to the UK, at an exorbitant interest rate, Mr Bates submits, that the evidence relied upon by the appellant to support his claim of a loan is in fact an agreement between [WJ] (party A) and [LC] (party B). The *prima facie* terms of the loan refer to a loan of 350,000 Yuan. [LC] is responsible for repayment of the principal sum and interest by the time stipulated in the contract. There is nothing in this agreement to indicate that the Appellant owes anything to [WJ] or indeed to [LC]. It may well be the case that having received the loan from [WJ], [LC] elected to loan the money to the Appellant for travel to the UK. However, the Appellant does not claim any threat to him from [LC] or any failure to repay him. In any event, the loan agreement between [WJ] and [LC] expired on 13th November 2019 and the Appellant does not provide a credible explanation when he states that he is unaware about what transpired thereafter, due to losing contact with his wife a year ago. The loan agreement expired even before the claimed breakdown in contact with his wife. Mr Bates submits that although the Appellant now says that there is a separate loan agreement between himself and [WJ] the reality is that there is no documentary evidence before the Tribunal of that, and if there had been a written loan agreement from [WJ], it made no sense for the Appellant not to have been provided with a copy of it, given that such an agreement had been provided in relation to the loan to [LC]. The documents relied upon by the Appellant are in any event, not originals and Mr Bates submits, little weight can be attached to them. As for the appellant's claim that he is a victim of trafficking, Mr Bates submits the plausibility of the Appellant's claim to have been a victim of trafficking within the UK concerned Dr McQuade. Dr McQuade speculates that the Appellant may have been used as an "unsuspecting courier" (see paragraph 41). However, this does not recognise the fact that the Appellant retained access to cash of around £2,000. Mr Bates submits that the evidence is that at various stages, the appellant had access to funds that were not commensurate with his claim to be a victim of trafficking. The Appellant's evidence was that of the money found by the police when he was arrested, about £620 was the proceeds of successful gambling in a casino that the Appellant was allowed to attend alone. Mr Bates submits the Appellant's ability to consistently retain cash for his own use undermines the Appellant's claim to have been under the coercive control of traffickers. His claim is also undermined by his ability to be accommodated by and with a friend of a friend following his release from detention. Mr Bates submits the Appellant has provided a false narrative to the Tribunal as to how he came to the UK and his claim to be a victim of trafficking. He submits that evidence that would be readily available to support the Appellant's claim has not been put before the Tribunal.
45. There remains the issue of the incident on 5th July 2020 in the UK, when he received injuries in a confrontation with what he maintains is an ongoing risk to him from his traffickers. The witness statement dated 1st September 2020 deals specifically with this incident (page 19 to 22) and sees him rely on his having set up a fake *We Chat* account (paragraph 12).

He states this is how he came to the attention of the man who assaulted him. The man allegedly used the ID name of “Feng Sheng”. However, the Appellant has failed to adduce any evidence to support his claims and failed to call witnesses that would be able to corroborate the claims made. There is no evidence from the *We Chat* account the Appellant claims triggered Feng Sheng’s adverse interest in him. Nothing connects this incident to the claimed traffickers beyond the Appellant’s own speculation. The Appellant has failed to give a consistent, plausible and credible account. In the written submissions Mr Bates does allow for the possibility that, “it could equally be the case that, whilst not a victim of trafficking, the Appellant has suffered some mistreatment in the informal/illegal UK economy” (paragraph 18) but this does not mean that he has been a victim of trafficking or is likely to be at risk upon return to China.

46. As for the Appellant’s medical issues, Mr Bates accepts in his written submissions that the Appellant suffers from PTSD and depression (page 99, paragraphs 45 to 48). He has indeed practised self-harm which predates his arrival in the UK (page 94 at paragraph 16). Mr Bates accepts that this is ongoing (page 98 at paragraph 41). However, the Appellant is aware of his mental health issues and is taking medication in the form of Sertraline for it. If the Appellant has chosen not to disclose any other traumatic events then the expert can only attribute this to the 2014 incident disclosed. The expert has assessed the Appellant as being at “moderate” risk of suicide (page 101 at paragraph 54). This is due to his being a “single male, isolated from any close family or community support,” and the Appellant has claimed to have lost contact with his wife and brother. However, there is no reason to believe that they have moved from the location where he last knew them to have been living. In the circumstances, the Appellant could return to his family home in Liaoning or his wife’s home in Shandong. He can re-establish family support and enjoy cohabitation with them. There is no reason to conclude that the Appellant would be unable to reside where his Hukou registration is maintained. For all these reasons, Mr Bates invites us to dismiss the appeal.
47. For his part, Mr Allison has provided written submissions dated 26th November 2021, drafted in response to the Respondent’s written submissions. He refers to the skeleton argument dated 2nd November 2021 that addresses the legal principles applicable to the assessment of credibility in trafficking cases relying upon the decision of the High Court in R (TVN) [2021] EWHC 3019 (11 November 2021). Mr Allison submits that as to any inconsistencies in the appellant’s account: (i) they may be attributed to his traumatic experiences; (ii) any lies told in the context of his experience of being trafficked do not undermine the core elements of his account; (iii) in any event, there is reliable independent evidence which supports the conclusion that the appellant is a victim of trafficking even if limited weight is attached to his account.
48. As to the Respondent’s submission that the Appellant has failed to provide evidence capable of supporting his claims, Mr Allison submits that in his

evidence when the appellant was asked whether he was given a copy of 'the second loan agreement', the appellant said, "*I asked from him, but he did not give me one.*", and the appellant could not reasonably be expected to provide a copy of 'the second loan agreement'. As for the absence of evidence from the friend who accommodated the appellant on release from immigration detention, Mr Allison submits the appellant provided evidence in the form of an NHS registration letter confirming his address in Wolverhampton. A fair interpretation of the Appellant's evidence in this regard is that he went to live with a friend of a friend in Wolverhampton after being released but the arrangement did not work out due to the lack of available work and/or the Appellant's mental health issues. Mr Allison submits the Respondent has not identified any proper basis for the submission that the person who accommodated the appellant in Wolverhampton, in 2018, could give material evidence in this appeal. As for the absence of evidence supporting the Appellant's account of events on 5th July 2020, Mr Allison refers to the background to that incident, the Case Management Directions made, and his application for an adjournment before us. He submits that in light of the medical evidence regarding the appellant's mental health and memory, and the lack of legal expertise, the appellant could not reasonably be expected to have identified the relevance of evidence relating to his criminal proceedings, to this appeal. Mr Allison reiterates that there is likely to be relevant documentary evidence in existence including relevant evidence such as witness statements from eyewitnesses, and a transcript of the Appellant's interview in which he provided his account of events. Mr Allison submits the Respondent's suggestion that the Appellant ought to have called his friend 'May', is in all the circumstances and realistic. He submits it would be wrong to draw any adverse inferences from the absence of evidence relating to the criminal proceedings.

49. Mr Allison submits the Respondent accepts that the Appellant suffers from PTSD and depression and has practised self-harm in China. The Appellant's oral evidence was subject to his being treated as a vulnerable witness. Mr Allison submits the manner in which the Appellant gave evidence was consistent with the accepted diagnosis. He became tearful at times whilst giving evidence. This necessitated a short break on one occasion. His oral evidence must be assessed in this context.
50. Mr Allison submits it is against this background that one must assess the claim in relation to the land dispute, which led to the Appellant being seriously assaulted, as well as giving rise to the risk of ill-treatment on return. It is not the case, as suggested by Mr Bates, that the Appellant's fear of return is on account of the impartial police investigation into the incident. This is because of the complicity of the Chinese state which takes part in enforced evictions without compensation (see skeleton argument of 2nd November 2021, at paragraph 24(a)). Mr Bates' submission that the Appellant's account was also implausible because the officer would have submitted a request to the police in Shandong province to make enquiries, rather than make the arduous journey himself, overlooks the fact that an account should not be treated as inherently incredible, given that there is

considerable risk of a decision maker being influenced by his own views on what is or is not plausible: see Y v. SSHD [2006] EWCA Civ 1223. In the same way Mr Bates' submission that the local authority would not seek to forcefully evict the Appellant's family and yet allow them to continue living there in the family home also was not necessarily right because this would depend on the circumstances. Forceful eviction without compensation was not unknown in China. Those acting on behalf of private contractors with connections to local authorities may not always act in a rational and predictable manner.

51. As to the question of trafficking from China, Mr Allison refers to the submission by the Respondent that the loan agreements were only with [WJ] and one other person. However, Mr Allison submits, this assumes that [WJ] was acting in a *bona fide* manner and that the agreements were arm's length contracts freely entered into by the parties. The Appellant claims [WJ] was involved in trafficking him to the UK for the purposes of exploitation. On that basis, the Appellant's account of being trafficked is plausible (see skeleton argument of 2nd November 2021, at paragraph 24(c) to 24(e)).
52. As for trafficking within the UK itself, Mr Allison submits Dr McQuade, the expert on trafficking, was aware of the Appellant being given cash to come to the UK and was aware of the police interview records which refer to him being in possession of cash when arrested. Despite this, he concluded that the Appellant was probably a victim of trafficking (see his paragraph 50, at page 160 of the Appellant's bundle). Mr Allison submits that "in reality, the extent to which a victim of trafficking is given access to cash is likely to depend on the extent of their isolation and the influence that their traffickers hold over them" (paragraph 15). The fact that the Appellant was accommodated through his friend after release from detention did not mean that he was not under the control of his traffickers. This was a fragile relationship. It was not well established. The Appellant's immigration status and his mental health issues were both precarious. This is why the accommodation arrangements broke down in the way that he has described.
53. As for the incident of 5th July 2020, Mr Allison submits that although the Respondent refers to inconsistencies that are said to undermine the Appellant's credibility, the Appellant's answers to questions under cross-examination and under re-examination reflect a significant degree of confusion, which is consistent with the assessments of Dr Arnold, Dr Foster and Dr Cohen regarding his short-term memory impairment (see skeleton argument of 2nd November 2021, at paragraph 22).
54. Finally, this leaves the question of the Appellant's medical condition. The submission by Mr Bates is that the Appellant would be able to access medical treatment in his home area in Shandong province where his hukou registration is maintained. There is evidence of the country expert, Dr Gordon, on this issue (Appellant's bundle at A144). However, Dr Gordon does not state that the Appellant is likely to have access to mental health

treatment where his hukou registration is maintained. She simply refers to estimates that 91% of those in China with diagnosable psychiatric disorder do not receive treatment (at paragraph 64) and that mental healthcare varies greatly according to what is available in the local area (paragraph 69). If the evidence establishes a real risk of the Appellant attempting to commit suicide on return then Dr Gordon's evidence is more than sufficient to establish a real risk that the Appellant would not be able to access treatment. That would put him at a real risk of suicide.

Reasons and Decision

55. The law relating to refugee and protection claims is contained in the Qualification Directive (2004/83/EC) which has been transposed into the law of the UK through Part 11 of the Immigration Rules and the Qualification Regulations 2006. The burden of proof lies on the Appellant and the standard of proof is usually described as a lower standard, being assessed according to "real risk" or "reasonable likelihood".
56. We have given careful consideration to all the documents, the evidence and to the oral evidence before us. We remind ourselves that, "the real question, as always in these cases, is, notwithstanding that which had happened ... whether it would be safe for this Appellant to return" (see Lord Justice Moses in AM (Pakistan) v SSHD [2008] EWCA Civ 1064 (at paragraph 18)).
57. In reaching our decision we have had the benefit of the totality of the evidence upon which the parties seek to rely, including the oral evidence that we have heard from the appellant, with the assistance of an interpreter. In reaching our decision we have also had particular regard to the matters set out in the expert reports relied upon by the Appellant.
58. For the avoidance of any doubt we accept the opinions of Dr Foster and Dr Cohen that the appellant meets the diagnostic criteria for PTSD and depression. We accept that the diagnosis of PTSD and depression are significant factors that affect memory and recall, and this can result in different details being recalled in successive accounts and omission of other details. In reaching our decision we have carefully borne in mind the limitations as to the Appellant's ability to accurately recall matters when considering his responses in interviews, statements and oral evidence before us. We have had careful regard to the medical evidence, and in reaching our decision we have taken into account the applicant's vulnerability. Throughout our consideration of this appeal we have had regard to the Joint Presidential Guidance Note No.2 of 2010: Child, Vulnerable Adult and Sensitive Appellant Guidance, and for the avoidance of any doubt our assessment of the appellant's credibility has been considered in the round, taking due account of the medical evidence and making due allowances for the fact that many asylum seekers that have been subjected to abuse will have problems giving a coherent account.

59. The relevant adjustments were made during the hearing before us and neither party drew our attention to any concerns regarding the conduct of the hearing. Although the appellant clearly found talking about his family and events in China difficult and upsetting, after the appellant had given evidence we were satisfied that the appellant had had the opportunity to properly participate in the hearing without any undue distress. Our assessment of the appellant's credibility has been considered in the round, taking due account of the medical evidence. Matters of credibility are never easy to determine, particularly, as here, where the appellant's evidence is received through an interpreter, and where the appellant is a vulnerable witness. We acknowledge that there may be a danger of misinterpretation, but we were careful to ensure that he Appellant understood questions asked, and the interpreter had a proper opportunity to translate the answer provided. We have also borne in mind the fact that events that may have occurred some time ago, can also impact on an individual's ability to recall exact circumstances. We also recognise that there may be a tendency by a witness to embellish evidence because although the core of the claim may be true, he/she believes that by embellishing their evidence, the claim becomes stronger. In reaching our decision we have also been careful not to find any part of the account relied upon, to be inherently incredible, because of our own views on what is or is not plausible. We have considered the appellant's claims and the story as a whole, against the available country evidence and reports relied upon.
60. For the avoidance of doubt when assessing the credibility of the appellant and his claims we have considered all the evidence in the round and have borne in mind throughout, the expert evidence that is before us, whether expressly referred to or not. We have already set out the evidence before us at some length and it is entirely impractical for us to consider each and every aspect of that evidence and the Appellant's account of events in this decision. In setting out our decision and reasons, it is convenient to take the Appellant's claims in chronological order. We deal first with the Appellant's claim that he is at risk upon return to China because of a land dispute, and his claim that he was subsequently found or traced to be in Shandong by a police officer, Liu.
61. We note from the outset that in her report, Dr Stephanie Gordon refers to the prevalence of illegal land seizures by the Chinese government, which has led to mass opposition and protest. She notes that while there are laws in place to ensure landowner rights are protected, local authorities routinely neglected to convene public hearings and on the rare occasions authorities convened hearings, those meetings were only for show. She notes that compensation has become a key area of contention for both rural and urban Chinese citizens. She notes that in some cases, violence is committed on a large-scale during land eviction, involving police officers, firefighters and riot police. We have also considered the background material relied upon by the appellant regarding loss of homes, often to local authorities, who seize land and sell the land for profit. We note what is said in the 'Immigration and Refugee Board of Canada, China: Situation

and treatment of Chinese citizens who protest their land expropriation at the local level (2017 – December 2019)’ article published on 6th January 2020. The article states that land expropriation issues remained among the top three reasons for protests in China, but have declined over the last decade. Protests now tend to be small (100-200 people) and are generally isolated incidents given the local nature of the issue. The background material and the evidence of Dr Gordon therefore lends some support to the Appellant’s claim, and we consider his account of events in that context.

62. In his initial screening interview completed on 21st May 2018, the appellant briefly explained why he could not return to China. He said: *“Authorities in China illegally want to extend people’s houses. There is no agreement to knock my house down illegally. Me and my brother had a dispute with the local authorities and my brother got hurt and went to hospital. I also got hurt. If the local authorities find me, then I will die”*. The information gathered during the screening interview is very brief and although we note the appellant refers to both him and his brother having got hurt with no reference to the death of the appellant’s brother, we accept that that does not on its own undermine the credibility of the appellant’s claim.
63. The appellant was asked further questions about his claim during the substantive asylum interview in June 2018. At the outset of that interview, the appellant’s representative confirmed (Q.1) that the appellant had said that his brother had been hurt during the incident but had in fact been killed. The appellant confirmed his brother had passed away. The appellant explained during his interview that his elder brother had built a house and the authorities had wanted to demolish that house (Q.36 & 37). He said (Q.38) that “they came and they used a bulldozer and destroy our house”. He explained that since 2012/2013 there had been talk about the houses in the area being demolished. In 2013 they had started to demolish some of the houses on the ‘lower slope’. The appellant’s family home was on the ‘higher land’. The appellant claimed that in May 2014, the local authorities came to the family home, and they were told to move out of the house with no compensation. He said the appellant and his brother tried to stop someone from driving a bulldozer at their property. He said that the property was not demolished but a fight broke out. The appellant’s brother was tied up, and the appellant fought back and tried to protect his brother. The appellant said (Q46) that the police came and *“one of them used a bowl to hit on my head”*. He explained (Q.52) that after the fight his friend took him to a surgery to have some stitches to his forehead and ear lobe. Later in the interview, the appellant said (Q.54) that the police came later, and they did not do anything. They did not take a statement from the appellant. The appellant said that during the night his brother’s abdomen started to swell, and the next day he was sent to hospital and passed away. The appellant said that he then moved to Shandong. When he was in Shandong, the policeman, Liu, kept returning to the family home and said the appellant must come back and report to the police to help them. He said (Q.58) that he saw Liu in Shandong and the appellant moved to another place to avoid him and then tried to

arrange to go abroad. When asked (Q.58) why he thought Liu wanted his help, the appellant said that during the fight someone was hurt although he did not know how seriously. He confirmed that there is no official document requiring the appellant's arrest. The appellant confirmed that during the incident, his brother was kicked, and the appellant used a baton to hit someone. He again said that they had used a ceramic bowl to hit his head. The appellant explained that the authorities did not return to demolish the house. His brother and father continued to live in the house and although the house is still there, the electric and water supply has been cut off by the local authority.

64. A Rule 35 report was completed on 4th June 2019. The appellant was noted to have a scar to his forehead and left ear, which the author of the report considered to be consistent with the appellant's narrative that he was *"tortured by political / government people who used their power to demolish his house and repossess his land unlawfully"*. The account provided by the appellant was that he was tortured in 2014 due to a housing project. He said: *"There were powerful people who were taking over housing areas and demolishing houses. He was part of an uprising against. His brother was beaten to death by these people, and he was tortured to give up his property and land. The people were on the side of the government. He describes that he was beaten by a large group of men."*
65. The Appellant told Dr Foster that *"in early 2014 a group of some 20 Hooligans together with state officials arrived with a bulldozer to break down the house. A fight ensued between those who had come to destroy his house and the local people and the [Appellant's family]."* The appellant told Dr Foster that his brother was knocked to the ground and when the appellant attempted to rescue him, he was hit by an attacker with a water basin and sustained an injury to his head. He attended a local clinic where his scalp wound was sutured. He told Dr Foster that although his brother appeared to have recovered from his injury, the following day his brother's condition deteriorated, and he began bleeding from his mouth. He was taken to hospital but died before he could be registered in hospital.
66. The Appellant told Dr Arnold that in May 2014, some 20 - 40 men armed with sticks and wearing the uniform of municipal authority arrived and attempted to confiscate the family's land and knock down the buildings. He claimed the family attempted to protect their property and the appellant and his brothers were knocked to the ground, kicked and hit with sticks. The Appellant claimed he was knocked unconscious and woke in a clinic and learned that his neighbour had taken him there. His wounds were sutured, and he was given injections. He was discharged and went to re-join his wife in Shandong. The appellant said that he learnt that his older brother died as a result of his injury and the family reported the killing to the police, but they took no further action. The appellant told Dr Arnold that the men who had demolished the family's home claimed that they had been injured while acting lawfully and reported those allegations

to the police. A police officer arrived to arrest the appellant and the appellant avoided arrest and went into hiding.

67. Notwithstanding the Appellant's vulnerability and his inability to accurately recall matters in a coherent way, although we accept that the Appellant was involved in some form of altercation in China in or about May 2014 during an incident in which he sustained injury and required stitches, we do not accept, even to the lower standard, the Appellant's claim that he was injured when officials from the Local Authority and police attended the family home in Liaoning to demolish the family home. There may have been some local demonstration regarding attempts to confiscate or demolish local properties, but we do not accept that the altercation occurred at the family home of the appellant and involved police officers or officials from the local authority. We do not accept the Appellant's claim that he injured a police officer during the altercation, albeit that claim is itself based upon nothing more than rumours heard by the Appellant. The accounts given by the Appellant as we have set out above differ markedly as to what happened. We do not accept the appellant's evidence that his brother died in May 2014 as a result of injuries that he sustained during the course of the incident as described by the Appellant. Although we acknowledge that corroborative evidence is not required, here, such evidence should readily have been available and would have been able to lend support to the Appellant's evidence in circumstances where the Appellant, as a 'vulnerable witness', gives an account that is vague, inconsistent and at times incoherent. That evidence would have been able to support the Appellant's claim that his brother had died, the injuries he sustained and the cause of death, and may also have provided further contemporaneous information regarding the circumstances in which the injuries were sustained. There is also likely to have been some contemporaneous evidence relating to the incident from the clinic at which the Appellant was treated.
68. In any event, even on the Appellant's own account no further steps were taken by the Local Authority to demolish the family home after that incident. It is contrary to common sense that if local officials connected to the state apparatus had wished to demolish the appellant's family home, the authorities would simply have taken no further action to demolish the property if, as the appellant claims, that was the underlying motive that led to the incident. Furthermore, the appellant's brother continues to live in the same family home. Indeed, the house is still not demolished. This is despite the incident having occurred in 2014. The Appellant was able to continue living in China between 2014 and 2018 with his wife and her family without further incident. The Appellant does not claim that there has been any further attempt to capture the land or demolish the family home.
69. The Appellant told Dr Arnold that the men who had demolished the family's home claimed they had been injured and reported their allegations to the police. He said that a police officer arrived to arrest the appellant, but the appellant avoided arrest. In his asylum interview, the

appellant had said (Q.54 and Q.55) that the police had come to the house and did not do anything. He said that the “police weren’t even taking any statement’. In his evidence before us, in cross, examination, he said that his family had had given statements to the police about the incident. He confirmed that the statements were given by his mother, his father, and his second brother. When asked why he himself had not given a statement as one of the victims, the Appellant said that on the night when the police came, they said that if the Appellant he needed to have treatment, he should go and get treatment. We accept that PTSD, depression and head injury affect memory and recall, with more and different details being recalled in successive accounts but here again, there are marked inconsistencies in the Appellant’s account of event. It is perhaps unsurprising that the Police may have wished to speak to the Appellant regarding the incident. They had not taken a statement from the Appellant, and it would not be in any way surprising that they would wish to speak to those involved in any incident that led to injuries of the type described by the appellant. We note that in cross-examination, the Appellant’s evidence was that after his brother had died, the police came to the family home, but said they did not have enough evidence. If the rumour that the Appellant had hit a police officer during the altercation had any substance, that would have been apparent to the police immediately, and the police would have been looking for the Appellant with some vigour.

70. The Appellant claimed in interview that a Policeman, ‘Liu’ kept coming to the house to find where the Appellant is. The Appellant said that he saw ‘Liu’ in Shandong. ‘Liu’ did not see the Appellant and the Appellant claimed in interview that he moved to another place to avoid him. In his evidence before us, the Appellant said that when he was living in the Shandong province with his wife and her family, he recognised a number plate from the Liaoning area. He said that when he saw two people step out of the car and walk towards the village he knew the officer, “Liu” because he was able to recognise him, having previously seen ‘Liu’ in Liaoning. Even if the Appellant had seen and recognised ‘Liu’ whilst he was in Shandong, we find that the Appellant’s claim that he was looking for the Appellant is nothing more than speculation. The Appellant could, we find, have been traced to the family home of his wife if the authorities had any genuine interest in him. The Appellant does not claim that the Police or anyone else came searching for the Appellant when he was living with his wife and her family in Shandong.
71. If the police wish to speak to the Appellant, we find that this would be on account of eliciting further information regarding the fight that broke out. There may be a prosecution of the Appellant or there may not. The reality is that the Appellant was able to continue living in China between 2014 and 2018 and that he was able to leave China on his own passport after the event.
72. We also reject the Appellant’s claim that he is at risk upon return because of money owed to others who facilitated his journey to the UK. In reaching

our decision and in considering the Appellant's account of events, we have throughout had regard to the evidence set out in the reports of Dr Stephanie Gordon and Dr Aidan McQuade. We note the opinion of Dr Gordon that it is plausible for the appellant to have borrowed money from a loan shark for the purpose of travel to the UK. We accept her evidence that there is a great deal of informal moneylending within China, whether that be money borrowed from relatives, friends, professional moneylenders, or indeed lending connected with illegal activities. We note her evidence that Chinese moneylenders, like any loan sharks, are adept at employing coercive methods for illegal debt collection. Her evidence is that in terms of legal redress, it is possible that a moneylender could seek formal legal action against the Appellant although private loans are contractual relationships between lenders and borrowers, and so their transactions mostly remain outside state intervention, except for complying with a few provisions in private and public law..

73. The only evidence that we have of any loan is a copy of a loan Agreement between [WJ] (*the creditor* Party A) and [LC] (*the debtor* Party B). We have not been provided with the original but do have a translation of the copy. The document records a loan in the sum of 350,000 Yuan between the parties and is said to be to help out the Appellant with "surety for overseas travel purposes". The agreement places obligations upon Party A and Party B but does not place any obligation whatsoever on the Appellant. The duration of the loan is said to be two years commencing on November 13th, 2017, and ending on November 13th 2019, with interest accruing at the monthly rate of 2%. There is no agreement between the Appellant and [WJ] and no agreement between the Appellant and [LC]. We reject the Appellant's claim that there was a further agreement between the Appellant and [WJ] for the loan that he was not provided a copy of. We find that there is no such agreement. The terms of the agreement that is before us are clear. The loan agreement that is before us clearly states that "As a result of party B's sudden need for cash the purpose of which is to help out [the Appellant] with surety for overseas travel purposes, they found it necessary to approach Party A to borrow the money...(our emphasis)". This is clear evidence of the monies being loaned by [LC] from [WJ] rather than any money being loaned by the Appellant from [WJ]. We do not accept the Appellant's claim that [LC] simply acted as a guarantor. [LC] might well have provided the appellant with some of the proceeds of that loan (*[LC] borrowed 350,000 Yuan*) to the Appellant to assist him with the costs of his travel to the UK, but under the terms of the agreement, the repayment of the loan remains the liability of [LC]. The Appellant's evidence before us was that he had managed to obtain a copy of the Agreement with the assistance of his wife. When Mr Bates asked the Appellant whether his wife's friend had ended up losing their house, the Appellant said that he did not know because he had lost contact with her. We do not accept the Appellant's account to be credible. We reject the Appellant's claim that attempts have been made to recover monies due from his wife in China. If, as the Appellant claims, [LC] had acted as a guarantor for monies that the Appellant has failed to repay, we do not

accept, even to the lower standard, that the Appellant would not have been made aware of the difficulties that that would have caused for [LC], who had acted as guarantor. The Appellant's evidence was that he only lost contact with his wife about a year ago and so there were at least two years during which time he would have been told by his wife of any consequences faced by [LC] for failure to adhere to the terms of the Agreement. If [WJ] did intend to enforce the terms of any separate agreement between himself and the Appellant it stands to reason that he would have provided him with a copy of such an agreement. It is simply contrary to common sense that the Appellant would be denied a copy of the Agreement setting out his obligations. We find that if the Appellant did borrow any money to assist with his travel to the UK, he did so, by way of an informal arrangement between the Appellant and his wife and a family friend that does not place the Appellant at risk upon return.

74. We also reject the Appellant's claim that he has been a victim of trafficking in the UK itself. In reaching our decision we have had due regard to the opinions of Dr McQuade. At paragraph [37] of his report, he identifies two aspects of the appellant's account that he considers to be particularly problematic. He noted that when he pressed the appellant regarding those matters, the appellant maintained that his account is true.
75. The large sums of money that the Appellant has been carrying on his person do not sit happily with this claim that he is a victim of trafficking.. It is not just that he had almost £2,000 when he arrived in the UK. He was also apprehended with a sum of circa £800 when the police raided the suspected brothel. The suggestion that he was a cleaner only, does not explain how he would have such a large amount of money on him at that time. We do not accept that he had gambled at a Wolverhampton casino on one occasion and walked away with some £600. The Appellant is consistently found throughout his time in the UK with large sums of money on him. When the Appellant was released from detention, he claims he found accommodation with a friend of a friend. Although it is accepted that this does not last, we find that the Appellant was not under the coercive control of his traffickers even when released from detention. He was freely able to make arrangements as to where and with whom he would live following his release without any undue influence or coercion.
76. We have also carefully considered the appellant's account of the incident on 5th July 2020, when he was assaulted by a man by the name of *Feng Sheng*. Mr Allison has claimed in his written submissions that it was only on the day of the hearing on 2nd November 2021, that the Appellant had disclosed for the first time that there was an ongoing criminal trial. It is however clear that the Appellant and his representatives have known since the Case Management Review Hearing before Upper Tribunal Judge Gleeson on 3rd August 2020 of the relevance of that incident. The Appellant has signed a witness statement dealing with that incident, but again there is a lack of evidence relating to the incident that would readily have been available. There has been no evidence adduced by the Appellant from witnesses, especially given that he had a specific friend,

“May” and yet he has failed to produce evidence from this person. In his witness statement the Appellant claims there was a *We Chat* account with a group of people on it by reason of which *Feng Sheng* became aware of the Appellant’s whereabouts, but no evidence was produced in this regard. The Appellant’s concern as set out in his witness statement that the assailant may be linked to others involved in the trafficking of the Appellant is entirely speculative. The Appellant’s evidence regarding the background to that attack remains inconsistent and we reject his claim that he was told during that attack that his assailant wanted to kill him, and that he will kill him one day. It is an unfortunate fact that even in the UK, people are attacked, threatened and even stabbed, randomly and sometimes with no provocation at all.

77. Finally, we have carefully considered the evidence before us regarding the Appellant’s mental health and the risk of suicide. The appellant claims he would commit suicide if he were returned to China and a decision to remove the Appellant would violate his Article 3 rights. We acknowledge that an Article 3 claim, can in principle succeed, in a suicide case.

78. It is now well established that what is required is an assessment of the risk at three stages, prior to anticipated removal, during removal, and on arrival. We have carefully considered whether the suicide risk is such that a removal of the appellant to China would be in breach of Article 3 by reference to the test set out in J v SSHD [2005] EWCA Civ 629 as clarified in Y and Z (Sri Lanka) v SSHD [2009] EWCA Civ 362, noting in particular that giving the judgment of the court in Y and Z (Sri Lanka), Sedley LJ said:

“16. One can accordingly add to the fifth principle in J that what may nevertheless be of equal importance is whether any genuine fear which the appellant may establish, albeit without an objective foundation, is such as to create a risk of suicide if there is an enforced return.”

79. The Respondent accepts that the Appellant suffers from PTSD and from depression (see page 99 at paragraph 45 to 48). It is also accepted by the Respondent that the Appellant has practised self-harm and that this predates his arrival in the UK (page 94, at paragraph 16). It is accepted that this particular proclivity is ongoing (at page 98, paragraph 41). We have found that the Appellant is not at risk upon return from the Authorities either in Liaoning or Shandong and the Appellant can therefore return to his home area. For the avoidance of doubt, we find that the Appellant’s brother continues to live in the family home and that the Appellant’s wife remains in Shandong. We do not accept the Appellant’s claim that he has lost all contact with his wife. The Appellant remained in contact with his wife for some time after his arrival in the UK and we reject the Appellant’s evidence that he was simply told by his mother-in-law that he should not contact his wife and so he has not done so. The Appellant was clearly in touch with his wife and his wife was clearly willing to assist the Appellant by sending him documents to support his claim. We have rejected the Appellant’s claim that he is at risk from loan sharks, and we

find, there is no reason the Appellant should have lost contact with his wife.

80. We accept the appellant suffers PTSD and depression. We also accept that the appellant's current symptoms and mental health problems are likely to have been directly caused by his past history of trauma and the current situation, and that his uncertain immigration status and fear of being returned to China are likely to be factors that have caused an ongoing deterioration in his mental health. We have no reason to believe that the mental health problems the Appellant presents with are not genuine and there is no evidence to suggest that he is exaggerating or feigning his current mental health problems. Dr Cohen states that the appellant's mental health is in decline at the moment, and he needs further treatment than he is currently receiving. She states that further stressors such as removal to China would significantly increase the suffering and cause a serious rapid decline in his mental health. The evidence of Dr Gordon is that while theoretically, the appellant would be entitled to free mental health care, if there is no provision for this at a local level - or indeed he is unable to return to his hometown - then he would be required to pay for this care elsewhere in China. She expresses the opinion that essentially, the Appellant's access to and quality of mental health care, depends upon what is available in his local area of Hukou registration.
81. The Appellant is aware of the risk to his health and is taking Sertraline as his medication. We accept that if the appellant is advised of any adverse immigration decision, that is likely to lead to an acute deterioration in his mental health and increase the risk of self-harm and suicide. Any pre-removal detention is likely to worsen his mental state. On arrival in China, we accept the Appellant is likely to be highly fearful of harm and that may lead to an immediate deterioration in his mental state and increase the risk of self-harm and suicide.
82. We have given due weight to the opinions expressed in the reports before us by Dr Foster and Dr Cohen in particular regarding the risk of self-harm and suicide, indicated by the number of risk factors for self-harm and suicide that are present. However, in the end, we do not consider the medical evidence, taken at its highest, demonstrates a real risk that the appellant would commit suicide in the UK. The appellant has received support and cooperated with the medical authorities in the UK. When precautionary steps have had to be taken, those steps have been taken and we find that any risk upon the Appellant learning of any decision to remove him, would be adequately managed in the UK by the relevant authorities. Any risk that manifests itself during removal, is capable of being managed by the respondent and in the knowledge that no harm has come to the Appellant, or his brother and his wife who remain in China.
83. We therefore approach our assessment on the basis that it would be possible for the Respondent to return the appellant to China without him coming to harm, but once there, he would be in the hands of the mental health services in China. The risk here, results from a naturally occurring

illness. We have found that the Appellant has family in China, and we are quite satisfied the Appellant would have the support of his family on return, in particular, the support of his wife and her family. On the findings made, the Appellant's subjective fear is not objectively well-founded. There is no evidence before us upon which we can conclude that the treatment and medication required by the Appellant will not be available to him in China. We find that the family support which he still stands to avail himself of upon return to his hometown, would provide an extra protective layer such as to prevent him taking his life. We have had regard to the case of MY (Suicide risk after Paposhvili) [2021] UKUT 00232, which states that a risk of suicide has to be objectively well-founded. This is not the case here.

84. In AM (Zimbabwe) v SSHD [2020] UKSC EWCA Civ 64, Lord Wilson noted the ECtHR set out requirements (*at paras 186 to 191*) for the procedure to be followed in relation to applications under Article 3 to resist return by reference to ill-health. It is for the appellant to adduce evidence capable of demonstrating that there are substantial grounds for believing that, if removed, he would be exposed to a real risk of being subjected to treatment contrary to Article 3. The Supreme Court confirmed that that is a demanding threshold for an applicant. His or her evidence must be capable of demonstrating "substantial" grounds for believing that it is a "very exceptional case" because of a "real" risk of subjection to "inhuman" treatment.
85. In the end having carefully considered all the evidence before us, we are not satisfied that the appellant has established that there are substantial grounds for believing that he would face a real risk of being exposed to either a serious, rapid and irreversible decline in the state of her mental health resulting in intense suffering or the significant reduction in life expectancy as a result of either the absence of treatment or lack of access to such treatment. The 'suicide risk' is not in our judgement such that the removal of the appellant to China would be in breach of Article 3.
86. As for the Appellants' Article 8 rights, the Appellant has not established a family life in the UK. He has however been in the UK since 2018 and we accept that during his time in the UK he has established a private life in the UK and Article 8 is plainly engaged. We find that the decision to refuse the Appellant leave to remain has consequences of such gravity as to engage the operation of Article 8. We accept that the interference is in accordance with the law, and that the interference is necessary to protect the legitimate aim of immigration control and the economic well-being of the country. The issue in this appeal is whether the decision to refuse leave to remain is proportionate to the legitimate aim, which requires a fact sensitive assessment.
87. The evidence before us regarding the strength of the Appellant's private life is extremely limited. Beyond his presence in the UK we have no evidence of any particularly strong links that the Appellant has established. Although the appellant's ability to satisfy the immigration

rules is not the question to be determined, it is capable of being a weighty factor when deciding whether the refusal is proportionate to the legitimate aim of enforcing immigration control. We have considered whether the requirements of paragraph 276ADE of the immigration rules are met. We have found the Appellant is not at risk upon return to China and that he continues to have family in China who he can turn to, for support. On the evidence before us and the findings made we do not accept that there would be very significant obstacles to the Appellant's integration into China. The Appellant would have to establish something more than mere inconvenience or upheaval. We are quite satisfied that the Appellant is enough of an insider in terms of understanding how life in China is carried on, given the length of time he lived in China previously, and that he has a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis there, and to build up a variety of human relationships to give substance to his Article 8 rights.

88. In reaching our decision, we have also had regard to the public interest considerations set out in s117B of the Nationality, Immigration and Asylum Act 2002. The maintenance of immigration control is in the public interest. We remind ourselves that s117B(4) of the 2002 Act provides that little weight should be given to a private life established by a person at a time when the person is in the United Kingdom unlawfully. We acknowledge that that is not to say that I can attach no weight to the private life the Appellant has established during the several years he has now lived in the UK.
89. The Appellant plainly spent the formative years of his life in China. He has a wife in China and has previously worked in China. He also has a brother who remains in China and continues to live in the former family home. Having considered factors that weigh in favour of the Appellant and against the Appellant, in our final analysis, we find the Appellant's protected rights, whether considered collectively with rights of others that he has formed associations with, or individually, are not in our judgement such as to outweigh the public interest in the Appellant's removal having regard to the policy of the Respondent as expressed in the immigration rules. In the end, on the evidence before us and the findings we have made, we are satisfied that on the facts here, the decision to refuse leave to remain is not disproportionate to the legitimate aim of immigration control. In the circumstances we dismiss the appeal on Article 8 grounds.
90. It follows that we dismiss the appeal on all grounds.

Notice of Decision

1. We dismiss the appeal on Asylum and humanitarian protection grounds
2. We dismiss the Appeal on Article 3 and Article 8 grounds

Signed

Date

6th April 2022

A handwritten signature in black ink that reads "Saminder Juss". The signature is written in a cursive style with a large, sweeping flourish at the end.

Deputy Upper Tribunal Judge Juss