



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/05088/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 22nd February 2018**

**Decision & Reasons
Promulgated
On 29th March 2018**

Before

UPPER TRIBUNAL JUDGE JACKSON

Between

**SK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms C Robinson of Counsel, instructed by the Coram
Children's Legal Centre

For the Respondent: Ms Z Ahmad, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant appeals against the decision of First-tier Tribunal Judge Rodger promulgated on 13 October 2017, in which the Appellant's appeal against the decision to refuse her protection and human rights claim dated 16 May 2017 was dismissed.
2. The Appellant is a national of Afghanistan, born on 1 January 1994, who claims to have arrived in the United Kingdom on 6 May 2010, and claimed asylum that day. The asylum claim was refused on 10 September 2010, but the Appellant was granted discretionary leave to remain as an unaccompanied asylum-seeking child until 1 July 2011. The applicant applied for further leave to remain on 3 June 2011 which was refused on 4

May 2012 and the appeal against that refusal was dismissed on 26 June 2012. An application for permission to appeal was unsuccessful and the Appellant was appeal rights exhausted on 11 April 2013.

3. The Appellant submitted further submissions on 4 March 2015 on the basis that his removal to Afghanistan would be in breach of the Refugee Convention as he is at risk on return from the Taliban in his home area and also in Kabul had the hands of the Taliban, at risk of forced labour and/or trafficking and at risk because of westernisation; further that return to Afghanistan placed him at risk of indiscriminate violence contrary to Article 15(c) of the Qualification Directive and that his removal would breach of Articles 3 and 8 of the European Convention on Human Rights. The further representations included a report from Dr Foxley in support of his claims.
4. The Respondent refused the application on 16 May 2017 on the basis that the Appellant would not be at risk on return to Afghanistan from the Taliban, nor would he be at risk of exploitation or trafficking given that he was a healthy adult male and that there was no risk based on westernisation. In the circumstances, there was no need for the Appellant to internally relocate to Kabul but in any event that would not be unreasonable in all of the circumstances. The Respondent did not consider that Article 15(c) was engaged so it was not necessary therefore to grant the Appellant humanitarian protection, nor would there be any breach of Articles 2 and 3 of the European Convention on Human Rights if removed to Afghanistan. In relation to private and family life, the Appellant's family remained in Afghanistan and there was no evidence of his claimed partner in the United Kingdom or that such a partner was settled here. There were no exceptional circumstances for a grant of leave to remain outside of the Immigration Rules. The Respondent separately considered the Appellant's mental health that he claimed to be suffering from depression and post-traumatic stress disorder but noted that he was not receiving any treatment in the United Kingdom and that treatment was available in Afghanistan together with family support, such that there would be no breach of Article 3 on medical grounds.
5. Judge Rodger dismissed the appeal in a decision promulgated on 13 October 2017 on all grounds. In the course of the decision, Judge Rodger considered whether the Appellant was a vulnerable witness pursuant to the Joint Presidential Guidance Note to of 2010 and Practice Direction, First Tier and Upper Tribunal, "Child, Vulnerable Adult and Sensitive Witnesses" (the "Guidance") but did not make any adjustments during the course of the hearing. I return below in more detail to the findings made in relation to the Guidance and its application.
6. In dismissing the appeal, the Appellant was not found to be credible in relation to contact with his family, risk on return or as to his ability to speak Pashto. The witnesses who attended the hearing before the First-tier Tribunal were the Appellant's friends and were also not found to have given credible evidence. There were a number of inconsistencies identified in the evidence. Judge Rodger concluded that there was no risk

on return to the Appellant for any of the reasons claimed and, in any event, he would be able to safely and reasonably relocate internally to Kabul. The Appellant's claims for humanitarian protection and under Articles 2 and 3 on protection grounds stood or fell with the main asylum claim. Further, there was no disproportionate interference with his right to respect for private and family life under Article 8 and there was no serious health condition to separately engage Article 3.

The appeal

7. The Appellant appeals on three grounds. First, that the First-tier Tribunal materially erred in its assessment of the Appellant's mental health in a number of ways, including a failure to make clear findings as to whether the Appellant was or was not a vulnerable witness, a failure to make adjustments during the course of the hearing and a failure to take into account the Appellant's mental health making credibility findings. Secondly, that the First-tier Tribunal erred in its assessment of risk on return in relation to (i) the objective risk in the Appellant's home area; (ii) the Appellant's position on return in terms of family support; and (iii) the risk that he would face as a westernised young person. Thirdly, that the First-tier Tribunal has materially erred in its assessment under Article 8 of the European Convention on Human Rights and under paragraph 276ADE of the Immigration Rules and outside of those rules.
8. Permission to appeal was granted by Judge Hollingworth on 15 December 2017 on all grounds, albeit the reasons for the grant of permission to appeal focus only on ground one.
9. At the hearing, Counsel for the Appellant relied on the written grounds of appeal and reasons for the grant of permission to appeal. This was not a case where it was claimed that the First-tier Tribunal had no regard to the Guidance on vulnerable witnesses but a case in which credibility findings were made first and then the Guidance considered at the end in a confused manner. The evidence on which the application to apply the guidance on vulnerable witnesses was a letter dated 8 August 2017 from the Croydon IAPT Psychological Therapies and Well-being Service referring to a telephone assessment of the same day which recorded the Appellant as presenting with severe symptoms of depression and anxiety such that a course of cognitive behavioural therapy would be suitable and referral for further support made.
10. Counsel for the Appellant went through in detail the key parts of the decision dealing with the assessment of whether the Appellant was a vulnerable witness or not. The first reference to this being in paragraph 44 of the decision in relation to the request at the outset of the hearing to treat the Appellant as a vulnerable witness due to his mental health problems, which was rejected on the basis that there was insufficient evidence to show that the Appellant would have any particular difficulties during the hearing but additional breaks were offered if needed. The second reference is in paragraphs 51 to 53 which first make negative credibility findings against the Appellant about his contact with his family.

The next reference is in paragraph 61 where the Judge undertakes his assessment of credibility by reference to the Guidance, albeit this comes after the conclusion that the Appellant was not credible. The conclusions are reaffirmed in paragraphs 70 and 76 of the decision.

11. Overall in relation to the Guidance, Counsel submitted that the assessment of the Guidance was in the wrong place in the decision and the assessment was inconsistent. Contrary to the Court of Appeal's decision in Mibanga v Secretary of State for the Home Department [2005] EWCA Civ 367, a factfinder must not reach a conclusion before considering all of the evidence before it and should not reach a conclusion on one part of the evidence and then if in the negative, ask whether the conclusion should be shifted by any expert evidence. Further, it would in particular be unusual in the context of refusing to accept to treat someone as a vulnerable witness to make some allowances or adjustments during the course of the appeal hearing in any event. It is also inconsistent for the Judge to have found that the Appellant's mental health was not proven but then to purport to apply the Guidance in any event, with confusion as to whether or not the Appellant was or was not a vulnerable witness. It was submitted that this materially impacted on the hearing and the assessment of the evidence in the appeal.
12. On the second ground of appeal, it was submitted that even with a finding of family support in Afghanistan, its existence does not amount to protection for an individual and there was a failure to consider evidence on experiences of young people returning to Afghanistan and that they often struggle to reconnect with their family and support may not necessarily be available from them either because they are not welcome on return or the family do not have sufficient resources to help. This evidence contained in the After Return report from the Refugee Support Network is referred to in the decision but it was submitted not lawfully engaged with. In any event there was no proper consideration of whether in fact there was family support for the Appellant on the evidence before the First-tier Tribunal. Further, there was a failure of the Judge to refer to specific evidence before him including a letter from the Refugee Support Networks dated 21 September 2017, the oral evidence of Ms Norman and the detailed written evidence submitted by her.
13. On the third ground of appeal, Counsel makes essentially the same points in the context of the assessment of whether there would be very significant obstacles to the Appellant's reintegration on return to Afghanistan and noted the lower threshold in paragraph 276ADE of the Immigration Rules compared to requirements of internal relocation in the context of a protection claim. The Appellant's westernisation is relevant to reintegration even if not accepted in the context of a protection claim.
14. The Home Office Presenting Officer submitted in relation to ground one that it was a matter for the First-tier Tribunal to determine the extent of vulnerability of a person which in turn depends on the quality of evidence before the Tribunal in relation to the Appellant. It was submitted that the consideration of whether to make adjustments at the hearing was

reasonable with adequate reasons set out in paragraph 44 for declining to do so. There was no evidence before the First-tier Tribunal from a mental health expert professional and in any event, there was detailed consideration of what evidence there was in paragraph 61 to 64 of the decision. In those paragraphs the Judge gave adequate reasons for the weight he attached to that evidence.

15. In terms of the order with which matters were considered in the decision under challenge, it was submitted that it was not correct to suggest that there were findings on credibility and subsequently an assessment of vulnerability under the Guidance, there was in fact a long section dealing with aspects of credibility and then conclusions on risk on return. When reading the decision as a whole, there is no clear misdirection or failure to make assessment, there was a conclusion based on all of the evidence before the Tribunal.
16. In relation to the second ground of appeal, the Home Office Presenting Officer submitted that the Judge had given detailed consideration to the evidence before it, including Dr Foxley's report and gave reasons why it was not accepted at face value. There was clearly detailed analysis of the potential risk to the Appellant from the Taliban, the authorities, on the basis of westernisation and in relation to mental health. It is not an error of law for a Judge not to mention each and every specific piece of evidence before her and in this appeal, detail and adequate consideration was given to the evidence. On this ground of appeal in particular it was submitted that the grounds of challenge sought to reargue the appeal rather than identify an error of law and no material misdirection has been identified by the Appellant.
17. Finally, the Home Officer presenting Officer submitted that there was no error of law in the First-tier Tribunal's assessment of the Appellant's private or family life for the reasons given in paragraph 96 of the decision which were adequate and lawful.

Findings and reasons

18. The first ground of appeal relates to the Appellant's claimed mental health problems and the First-tier Tribunal's application of the Guidance as to its conduct of the hearing and determination of the appeal. The Guidance applies to appellants and witnesses who are 'vulnerable', as defined in section 59 of the Safeguarding Vulnerable Groups Act or because of their personal characteristics or impairments, including mental health. The Guidance to the First-tier Tribunal makes it clear in paragraph 3 that:

"The consequences of such vulnerability differ according to the degree to which an individual is affected. It is a matter for you to determine the extent of an identified vulnerability, the effect on the quality of the evidence and the weight to be placed on such vulnerability in assessing the evidence before you, taking into account the evidence as a whole."

19. There are three specific stages of an appeal to which the Guidance applies, first, before the substantive hearing (which is not relevant to this appeal as matters relied upon at the hearing were not raised at that stage); secondly, at the substantive hearing and finally in assessing the evidence and determining the appeal.
20. The Appellant appeals on the basis that the First-tier Tribunal failed to make adjustments during the substantive hearing for the Appellant as a vulnerable witness and failed to record whether or not he was a vulnerable witness. These matters were dealt with at the beginning of the substantive hearing and the grounds of appeal record that Judge Rodger stated orally that he did not consider the Appellant to be a vulnerable witness. That is reinforced by the conclusions in paragraph 44 of his decision setting out the request, the information before the First-tier Tribunal and conclusions on what, if any, adjustments were required, which stated as follows:

"I was asked at the outset to treat the appellant as a vulnerable witness on account of his mental health problems. I was told that he needed to have somebody from the refugee centre to sit next to him due to his age and his concentration problems. Given that the appellant is now aged 23 years and given that there was no medical report from a medical expert to confirm problems with concentration arising from any mental health problems or any reference within the IAPT letters to problems with concentration or memory, I was not satisfied that it was appropriate to treat him as being in need of someone sitting next to him. Further, I was not persuaded that there was sufficient evidence to show that he would have difficulties with answering questions or concentration or that any difficulties with concentrating or answering questions would be attributable to any mental health conditions or symptoms suffered. However, I did make clear that I was happy to break after periods of 30 minutes if a break was needed given that there was some evidence that he has recently been referred for counselling for reported mental health symptoms."

21. The rejection of the application to be treated as a vulnerable witness on the basis of a telephone assessment with the Appellant which did not identify any difficulties with concentration or memory, was one which was open to Judge Rodger on the very limited evidence before him. Adequate reasons were given for the refusal and his consideration of the request was in line with the Guidance. It is not inconsistent for the Judge to have erred on the side of caution and offered additional breaks for the Appellant during the hearing if needed. That was a sensible, practical course based on the evidence before him and in accordance with the general guide in paragraph 3 of the Guidance set out above. The additional breaks were also likely to have alleviated the claimed difficulties with concentration if they existed.
22. Secondly, the Appellant appeals on the basis that there was a failure to take into account the Appellant's mental health when making credibility findings and in doing so, reached findings before his mental health was considered and/or taken into account.

23. The Guidance, at paragraphs 14 and 15, specifically directs Judges to:
- “14. Consider the evidence, allowing for possible different degrees of understanding by witnesses and appellant compared to those who are not vulnerable, in the context of evidence from others associated with the appellant and the background evidence before you. Where there were clear discrepancies in the oral evidence, consider the extent to which age, vulnerability or sensitivity of the witness was an element of that discrepancy or lack of clarity.*
- 15. The decision should record whether the Tribunal has concluded the appellant (or a witness) is a child, vulnerable or sensitive, the effect the Tribunal considered the identified vulnerability had in assessing the evidence before it and thus whether the Tribunal was satisfied whether the appellant had established his or her case to the relevant standard of proof. In asylum appeals, weight should be given to objective indications or risk rather than necessarily to a state of mind.”*
24. It is necessary to set out Judge Rodger’s findings in relation to mental health and credibility in full to determine whether he erred in law in his application of the Guidance on this point. However, these should also be put into context within the decision as a whole. The Judge’s starting point at paragraph 45 was the previous determination of Judge Davey and the findings of fact therein which were set out in the subsequent paragraphs and considered in accordance with Devaseelan (Second Appeals – ECHR – Extra-Territorial Effect) Sri Lanka [2002] UKIAT 00702. There was no further challenge to the determination of Judge Davey and no suggestion by the Appellant that the findings of fact contained in that earlier decision were in any way affected by the Appellant’s mental health at the time of that decision. There were therefore existing adverse credibility findings prior to the appeal before Judge Rodger which he was bound to take into account in accordance with Devaseelan.
25. Paragraph 50 of Judge Rodger’s decision records the parts of the Appellant’s evidence that were not previously accepted as credible by the previous judge and paragraph 52 specifically deals with the previous finding that the Appellant was in contact with his family in Afghanistan. Judge Rodger then considered the evidence before him about the Appellant’s family and sets out detailed reasons as to why the claim that he has not been in touch with them since arriving in the United Kingdom was not found to be credible and that the finding in the previous determination stood. The matters relied upon in reaching the same finding were in relation to the Appellant’s attempts to trace his family through the Red Cross (and lack of supporting evidence from them); the Appellant’s poor explanation for deletion of his facebook account; and the lack of credibility of the witnesses who appeared on the Appellant’s behalf. The majority of the reasons given as to the Appellant’s lack of credibility on the point in relation to contact with his family were matters which were wholly unaffected by any claimed mental health problems or vulnerability, focusing primarily on assessment of the other witnesses and lack of supporting documentation. Those findings were entirely open to Judge

Rodger and were in accordance with paragraph 3 of the Guidance as well as the more detailed provision in paragraphs 14 and 15 of the same.

26. Following this, when dealing with further aspects of the Appellant's credibility and risk on return to Afghanistan, Judge Rodger set out his findings in relation to mental health and applicability of the Guidance in paragraphs 61 to 65 as follows:

"61. In determining the appellant's credibility, I have of course taken into account that he was recently assessed by telephone by local IAPT services in August 2017 and that he had reported symptoms that scored severe relating to both depression and anxiety. I have fully considered whether any inconsistencies in his account or his ability to provide evidence and the nature of it has been affected by any mental health problems, asset out in the Joint Presidential Guidance Note 2 of 2010 relating to vulnerable adults. Whilst I accept that he was assessed and that he has been referred for CBT treatment following the assessment there is no medico-legal report carried out by a medical expert to confirm the existence of any alleged mental health symptoms and the effect of those on the appellant. Whilst there is a record of the appellant reporting certain mental health symptoms by the IAPT practitioner in both March 2015 and again in August 2015 [sic 2017], there is no indication of whether the treatment provider had considered whether the appellant was genuine in the presentation or reporting of symptoms and the assessment was done by telephone rather than by meeting the appellant. I also note that the appellant's mental health symptoms appear to have improved as he had no suicidal thoughts and he was no longer self-harming by punching walls. This is consistent with the appellant's initial response in cross-examination wherein he confirmed that his mental health was generally improving. Whilst in response to Ms Robinson's question in re-examination he sought to clarify this by saying that he had misunderstood the question and that his mental health was getting worse, I was not persuaded by this explanation. There was no suggestion or indication at the time that the question was put and answered that he had not been able to understand the very clearly put and succinct question put to him in cross-examination and he was very clear in his response. I was not persuaded that he had not understood the very clearly put question about his improving mental health. He has a very good understanding of English and the question was not complicated or obscure and there was no request for the question to be repeated on account of a perception at the time of it being asked of it being unclear or not understood and I did not feel the need to clarify it with the appellant as there was no hesitation in his response and it was consistent with his earlier evidence that he was no longer punching walls and did not have suicidal thoughts..

62. Further, the letter from the IAPT practitioner following the assessment on 08/08/17 stated that the appellant had reported having nightmares and flashbacks. These were not reported in March 2015, which was closer in time to when he had left Afghanistan. This does not seem to set well with this being a credible account of suffering from mental health problems and there is no medical evidence to comment on the consistency of his account or to diagnose a mental health condition. I also note that the appellant has not been prescribed medication for any mental health symptoms and there is no

indication that he has had to utilise any crisis teams or go to his GP on account of his mental health in between the two assessments other than Ms Norman organising the IAPT assessment on his behalf through his GP.

63. With regards to the mental health condition being relied upon by the appellant, I take note of the contents of the letter by Ms Norman. Whilst she refers to her assessment of the appellant being of low mood and fragile mental health, she is not medically qualified and there is no evidence that she has carried out any tests or assessments in order to check whether the reporting of the symptoms is consistent or otherwise credible. Further, whilst she states that she carried out an emotional wellbeing assessment with the appellant, she is not a medically trained practitioner or a medical expert and I am not satisfied that I am able to rely on her evidence that the appellant is of fragile mental health. I also take into account that Ms Norman has been supporting the appellant through the Refugee Support Network programme and since closure of the programme. She is not independent and is not medically trained. Further, the appellant had told her, and it was Ms Norman's understanding, that the appellant is not in contact with any family in Afghanistan and her letter and support of the appellant has been based on a non-credible account being provided to her by the appellant. Therefore, whilst she may have observed the appellant's low mood, given that she was persuaded by the appellant that he was not in contact with his family, which I find to be untrue, I am not satisfied that I am able to place any real weight on her assessment of his mental health situation or extent of any such alleged condition, as this is likely to be yet another incidence of where the appellant has misled her and her support and opinion of his likely situation and situation on return is based on a wrong premise.

64. Whilst I accept that the appellant had an assessment in March 2015 and again in August 2017, the conclusions of the reports are based on the account provided to them by the appellant over the telephone and there is no indication of whether the assessor had considered whether the symptoms were consistent or indeed credible, (which would seem to be normal as a patient's account is normally taken at face value). The appellant has been represented and yet there is no medical assessment report relating to his mental health and on his own evidence he has not been to his GP himself with any mental health problems. He had the recent IAPT referral which was organised by Ms Norman with his GP and whilst he said that he had been referred for primary healthcare two years ago, he said that he had lost the appointment letter and didn't go to the assessment. If he had been suffering from an on-going mental health condition with significant symptoms and was in need of treatment, I find it difficult to accept that he would not have chased up a further appointment or that there would be no diagnosis of a mental health condition.

65. Overall having had the benefit of oral evidence from the appellant and on considering all of the evidence available to me, I am not satisfied that the appellant's account of his mental health is credible or that any symptoms he may suffer from are as severe as alleged or would impact on his ability to reintegrate into Kabul."

27. Although there is not a specific sentence in the decision that the Judge does not conclude that the Appellant is vulnerable; when read as a whole and in conjunction with paragraph 44 set out above, it is clear that Judge Rodger did not conclude that he was. He appropriately directed himself as to the Guidance and what needed to be considered when assessing credibility (beyond matters relating to contact with the Appellant's family which turned primarily on other evidence), but did not accept that the Appellant had the mental health problems claimed, nor that any symptoms were as severe as alleged and therefore that he was not a vulnerable witness in accordance with the Guidance. The findings made and reasons for them on this point are cogently set out in detail and were open to the Judge on the very limited evidence before him as to the Appellant's claimed mental health. I do not find that there is any error of law in the Judge's self-direction on this point, his application of the guidance nor of his reasoning as to why the Appellant was not considered to be vulnerable.
28. Further, I do not find that Judge Rodger has inappropriately considered the Guidance in a confused way or after making credibility findings, contrary to Mibanga or otherwise. In paragraph 51 of the decision, it is clear that the Judge is summarising what he has taken into account (the oral evidence and written documentation) and his conclusions on that, the reasons for which follow in significant detail. As above, the issue about contact with family was considered first, before the claimed mental health problems and assessment of applicability of the Guidance or otherwise; but that is logical given the applicability of the previous decision of Judge Pavey in accordance with Devaseelan and in any event, as above, whether or not the Appellant was vulnerable in accordance with the Guidance could not have materially affected that finding or the reasons for it.
29. From paragraph 66 onwards, there is then the assessment of risk on return and whether internal relocation to Kabul would be safe and reasonable. Within those paragraphs, there is a further summary conclusion in paragraph 70 as to risk on return, which in part relies on credibility.
30. In paragraph 76, Judge Rodger also considers as a substantive matter whether the Appellant's claimed mental health would affect the prospects of him reintegrating on return to Kabul. This is a relevant factor to consider given the Appellant's claim but is separate to the first ground of appeal as to applicability of the Guidance.
31. In summary, I do not find that Judge Rodger erred in law in his consideration of or application of the Guidance in circumstances where there was a distinct lack of supporting evidence as to the Appellant's mental health and any effect on him as a result of that and where very detailed and cogent reasons are given for the conclusions reached on this.
32. As to the second ground of appeal that the First-tier Tribunal erred in its assessment of risk on return in relation to (i) the objective risk in the Appellant's home area; (ii) the Appellant's position on return in terms of

family support; and (iii) the risk that he would face as a westernised young person; I also find no error of law for the reasons set out below.

33. Whilst Judge Rodger did not make any express finding that the Appellant was objectively at risk on return to his home area from the Taliban (he did expressly find that the Appellant was not at risk on return to his home area, or anywhere else, from the Afghan authorities or due to westernisation, and accepted that the Appellant may have a subjective fear on return to his home area), that could not in any event be a material error of law as he went on to find, in the same way that Judge Davey did previously, that the Appellant could safely and reasonably relocate to Kabul. The latter would inevitably lead to dismissal of the asylum appeal whether or not the Appellant was objectively at risk on return in his home area. There is therefore no material error of law in failing to make express findings about risk on return from the Taliban in the Appellant's home area.
34. As to whether family support would be available, Judge Rodger made clear findings which were open to him on the evidence that the Appellant was in contact with his family. In paragraphs 74 and 75 he expressly refers to the report from Dr Foxley and the After Return report on this issue and accepts from those documents that the simple existence of family in Afghanistan does not equate to protection for the returnees. However, he finds in relation to this Appellant's circumstances, that there would be such support, assistance and protection, relying on the past financial means of the family to procure the Appellant's passage to the United Kingdom, the Appellant's own resourcefulness, intelligence and ability to integrate into a foreign country and that he has good support networks and connections, including with friends and their families who live in or relatively near to Kabul. These are adequate reasons for the finding made that the Appellant would likely be supported on return.
35. It is not necessary for the First-tier Tribunal to refer to each and every piece of evidence before them in the written decision and there was no error of law in the present appeal for failing to refer expressly in paragraphs 74 and 75 to the UNCHR Eligibility Guidelines in 2016 which do not in substance take the matter any further than what Judge Rodger expressly accepted which is that the existence of family life does not per se equate to protection for returnees. In any event, Judge Rodger was bound by the country guidance in AK (Article 15(c)) Afghanistan CG [2012] UKUT 000163 (IAC) (the headnote of which was quoted in full in paragraph 32 of the decision) to the effect that it is not in general unsafe or unreasonable for a person to internally relocate to Kabul, even if they do not have family or a support network in Kabul. There is therefore no error of law in relation to family support and in any event, no material error of law as family support is not essential for it to be safe and reasonable to internally relocate to Kabul.
36. Judge Rodger considered whether the Appellant would be at risk on return to Afghanistan due to westernisation in paragraphs 78 and 79 of the decision, giving cogent reasons as to why he would not be based on the

background evidence before him. This included the After Return and the Asylos report but was not expressly limited only to these two documents. As above, the First-tier Tribunal need not refer to each and every piece of evidence before them in the written decision and there is nothing to suggest that Judge Rodger failed to take into account the letter from Bryony Norman and Emily Bowerman of the Refugee Support Network (particularly as he expressly referred to this evidence earlier in the decision as part of the written evidence, supported by oral evidence from Bryony Norman). The Appellant, in his written grounds of appeal, specifically relies upon the conclusion in that letter that he has adapted well and integrated into life in the UK, but that is, with respect, addressing a different point to risk on return because of westernisation. Cogent reasons are given for the finding that the Appellant would not be at risk on return due to westernisation, including the limited anecdotal evidence of targeting, that he Appellant still speaks Pashto, that his friends who are now British Citizens have not had any difficulties on return to Kabul and that there were no previous adverse experiences for the Appellant due to his religious practices. There is no error of law in relation to the findings on westernisation.

37. Finally, the last ground of appeal is that Judge Rodger materially erred in his assessment under Article 8 of the European Convention on Human Rights and under paragraph 276ADE of the Immigration Rules. This ground of appeal was put very briefly both in writing and orally, relying essentially on the same factual points as in the second ground of appeal. I have found no error of law in relation to consideration of family support or westernisation in the context of the protection claim and similarly there is no error of law in failure to consider these in the context of paragraph 276ADE of the Immigration Rules or Article 8 of the European Convention on Human Rights.
38. Judge Rodger appropriately directed himself as to considerations of reintegration under paragraph 276ADE of the Immigration Rules and outside of them under Article 8 in the final section of his decision from paragraph 91 onwards. He found that the Appellant would be supported by on return; that he is resourceful; has educational qualifications; speaks Pashto; and had spent his childhood years in Afghanistan. These are adequate reasons for finding that he would not face very significant obstacles to reintegration on return and that his removal would not be a disproportionate interference with his right to respect for private and family life. There is no error of law in the assessment or findings in this regard.
39. For all of these reasons, there is no material error of law in the decision of the First-tier Tribunal and as such, the decision of Judge Rodger to dismiss the appeal is confirmed.

Notice of Decision

The making of the decision of the First-tier Tribunal did not involve the making of a material error of law. As such it is not necessary to set aside the decision.

The decision to dismiss the appeal is therefore confirmed.

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

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

Signed
2018



Date 23rd March

Upper Tribunal Judge Jackson