



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

Appeal Numbers: UI-2021-001102
& PA/00157/2021

THE IMMIGRATION ACTS

**Heard at Field House
On 19th October 2022**

**Decision & Reasons Promulgated
On 11th December 2022**

Before

**UPPER TRIBUNAL JUDGE KEITH
DEPUTY UPPER TRIBUNAL JUDGE WOODCRAFT**

Between

**‘MS’ (BANGLADESH)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify him. Failure to comply with this order could amount to a contempt of court. The reason is because the appeal relates to the appellant’s claimed fear of persecution in his country of origin.

Representation:

For the Appellant: *Mr A Stedman*, instructed by Wildan Legal Solicitors

For the Respondent: Ms A Nolan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the remaking of the decision in the appellant's appeal against the respondent's refusal of his protection and human rights claim.

Background and preserved findings

2. The context of this remaking decision is our error of law decision promulgated on 3rd August 2022, and annexed to these reasons, which sets out the background to the appellant's appeal and also importantly, the narrowness of the issues before us. Without rehearsing the error of law decision in full, the appellant's claim had involved the following issues: whether the appellant, a Bangladeshi national, had a well-founded fear of persecution because of his political support for the Bangladeshi Islami Chhatri Shibir ('BICS') the student wing of Jamaat-e-Islami (JEI), the rival political party to the governing political party in Bangladesh, the Awami League ('AL'). The respondent had accepted that the appellant had been a member of BICS and that he had had 'some responsibilities' whilst at school in that organisation and he had started an associated organisation called the 'Golden Touch Student Association' or 'GTSA'. However, large parts of the remainder of the appellant's claim had been contested, including that the appellant had been targeted by rival AL supporters or that he had been the subject of adverse police attention when living in Bangladesh. In our error of law decision, we concluded that the FtT had erred in law in one narrow but material respect and that the FtT's reasons were otherwise well structured, clear and methodical. As we set out at §17, the FtT had recognised that the appellant's case was that there was a real risk that supporters of parties in political opposition would face persecution from AL supporters. The respondent had accepted that the appellant had set up the GTSA. The question was whether the FtT's analysis at §44 that the appellant's support for BICS and JEI was not of the depth or significance that would bring him to the attention of political opponents was sufficiently reasoned. We had concluded that it was not. Whilst the FtT had rejected the appellant's specific claims of other activities and adverse interest, where there was objective evidence that might be read as meaning that mere support for opposition parties might risk persecution, it was incumbent on the FtT to explain why the appellant's fear of persecution was well-founded. The FtT references to depth or significance of involvement did not engage with the objective evidence on whether risk depended on such a distinction. We also accepted the appellant's challenge that the nature of the respondent's concession in terms of the extent of the appellant's activities needed to be explained more fully. For ease of reference, we set out below FtT's findings which we had preserved, at §19:

"19.1 at §§16, 30 and 39, that the appellant did not face opposition, attack, or police prosecution in Comilla;

19.2 at §26, that the account put forward by the appellant's then-representatives was fictionalised;

19.3 at §27, that the appellant had not faced adverse interest when JEI was in power with the BNP;

19.4 at §28, that the appellant was not secretary or president of his local BICS unit;

19.5 at §29, that the appellant progressed through his university studies 'problem free' and 'entirely detached from politics;'

19.6 and finally, at §§35 to 37, that the correspondence and arrest warrant relied on by the appellant were not ones on which any weight could be placed.

3. The background to the appellant's claim is therefore as someone who had been born, brought up and studied in Bangladesh, including to university level, and leaving that country aged 23, having suffered no adverse interest prior to his departure, despite his claims otherwise. He entered the UK with leave as a student on 17th January 2011, and had remained here unlawfully following the respondent's refusal on 30th July 2015 of his application to extend his student visa. The appellant later claimed asylum on 16th May 2019, claiming to fear persecution based on some responsibilities that he had within his local BICS organisation sometime between 1998 and his admission to university in Bangladesh in 2006 (a university called 'Daffodil University'). As noted in the preserved findings above, the appellant was not involved in any student politics while at university. As the appellant accepted in his evidence before us, the 'GTSA' social organisation, which he had founded, had not been active since he left Bangladesh in 2011. The appellant argues that he has been involved in 'hidden' *sur place* activities while in the UK, but not such that it would attract any attention. He has not drawn our attention to what these hidden activities might be.
4. The respondent had accepted that the appellant had "contributed towards some responsibilities" (see §16 of the FtT's decision) and it became clearer, when the appellant gave brief oral evidence to us, what those activities were.

The hearing - findings, discussion and conclusions

5. The appellant relied on a supplementary bundle, which included his original statement before the FtT (pgs [9] to [18]) and an updated witness statement (at pgs [2] to [8]). The appellant also gave oral evidence via a Bengali interpreter to us. We do not recite his evidence in full or the parties' respective submissions, except where it is necessary to resolve disputed findings of fact and explain our conclusions. We have considered all of the evidence to which we were referred, whether we make reference to it or not. For the avoidance of doubt, we made clear to Mr Stedman that he must refer us to relevant excerpts from the country evidence, and that he should not assume that we read beyond the excerpts which he

identified. After discussion with him, we agreed the list of relevant passages.

6. The FtT largely rejected most of the contents of the appellant's first witness statement, which had included assertions of persecution while in Bangladesh. The FtT found that the appellant had overstated his role in BICS. We accept, as the appellant claimed, that he joined his local BICS branch in 1998, while still aged only around 11, but was never a president or secretary of his local branch. He maintained in oral evidence before us that he was involved in 'activities'. When we asked him what these activities were, before attending university, he gave unchallenged evidence and we find, that he had been asked by his local BICS branch to teach students in his local madrassa how to pray. He returned to his local madrassa during university holidays to continue this. On re-examination, he added that his audience was of typically between 40 to 50 madrassa students around once every month or couple of months. We find that these are the extent of his activities for BICS between 1998 to 2011. To reiterate, he suffered no adverse interest as a result.
7. While the appellant has claimed that he has engaged in hidden sur place activities in the UK, which he has concealed for fear of repercussions for his family members in Bangladesh, we do not find, to the lower standard of proof, that he has been so engaged in such activities. We find this first, because he has not drawn our attention to any detail of what such activities might be. Second, he did not attempt to conceal his activities in Bangladesh, despite his claim at the time to fear persecution. Third, the lack of sur place activities in the UK is consistent with the fact that when in Bangladesh, his involvement with BICS was extremely limited, attracting no adverse interest, and GTSA activities have ceased. In summary, we find that the appellant was at the lowest end of the scale of responsibilities for BICS between 1998 to 2011, attracted no adverse interest as a result of those activities and has engaged in no sur place activities since.
8. Having considered the appellant's witness evidence, we turn to the country evidence on which he relies. Mr Stedman accepts that there is no specific evidence which indicates that those such as the appellant who teach prayers at a madrassa would have a well-founded fear of persecution.
9. Mr Stedman further accepts that the appellant's appeal is placed in particular difficulties because of the preserved findings, that notwithstanding the appellant's BICS role between 1998 and 2011, he suffered no adverse interest in Bangladesh. Nevertheless, he refers to country evidence, the thrust of which he says does not distinguish between either those of particular prominence within BICS and those engaged in only limited activities. He submits that any person perceived as having BICS loyalty or as active has a well-founded fear of persecution, particularly if detained.

10. In making this submission, Mr Stedman referred us to the Country Policy and Information Note ('CPIN') Bangladesh: Political parties and affiliation, version 3.0 dated September 2020 and in particular §§7.3.7 and 8.2.3. These excerpts repeat that according to a 2018 report by Human Rights Watch, supporters of JEl and BICS are at severe risk of abuse, once detained in police custody and even those not born at the time of Bangladesh's secession from Pakistan (and so perceived as disloyal) could be at risk because of family links.
11. However, Mr Stedman's submission begs the question of whether the appellant would be at risk of being detained in police custody where he had not been so detained between 1998 and 2011. Moreover, §8.2.3. refers to a period leading up to the 2018 general elections where around 10,500 party activists were arrested, with thousands detained. Once again, the country evidence focuses on the risk of arrest and what might occur in the event of somebody being arrested.
12. He also relied upon a Human Rights Report, dated December 2018, entitled 'Creating Panic.' He referred to the summary; and pgs [4] to [6]. These excerpts described the individual circumstances of a primary school teacher who had been arrested for posting blogs or sharing a like on Facebook said to be in support of an appeal for peace during an ongoing student protest. The report referred to intensifying violence in December 2018 in the context of the election campaign. The report itself was based on 50 interviews with political activists, students, and members of civil society. It referred to politically motivated criminal cases being filed against leaders and supporters of opposition parties (over 300,000) with the criminal allegations often both broad and vague. It spoke of supporters of JEl and its student wing at severe risk of abuse, if in police custody. It also spoke of student protests, where students had been detained and subjected to severe beatings. We pause at this stage to reflect that the risk discussed related to attention as a result of social media activity or attendance at demonstrations, resulting in detention.
13. Mr Stedman next referred to a report by Human Rights Watch entitled 'We Don't Have Him' dated 6th July 2017 in relation to disappearances of political opponents of AL. He relied on two specific cases: Shahid Al Mahmud, a cattle farmer and JEl student activist (the precise nature of his activities were not drawn to our attention) who was picked up from his house in front of his parents, taken away and subsequently died in disputed circumstances; and Oliullah Mollah, vice president of his local brick field workers association and general secretary of his local BICS unit who was similarly picked up and whose body was later found following a gunfight. In the case of the first person, his activities are not clear. In the second, he was clearly of higher profile than the appellant. We are not persuaded that there is reliable evidence, to the lower evidential standard, that either case is analogous to the appellant, by reference either to his profile or based on the known nature of his activities.

14. Finally, we were referred to §8; page [14], §9 page [15]; and pages [28] to [31] and page [33] of a report dated 31st January 2022, prepared by an organisation Odhikar which is a campaigning group, clearly in political opposition to the AL government. Even assuming that the comments relied on are objective (and we are not satisfied that they are) the excerpts to which we have been referred once again refer to specific examples of organising secretaries and deputy general secretaries of relevant political organisations, who have been adversely treated by the authorities. There is also reference to a total of 23 people allegedly having disappeared in 2021, though their individual circumstances are not detailed further. More generally, there are references to 182 people being killed in 2021, with thousands injured in political violence and allegations according to the authors of misconduct, violence and internal conflicts within the AL. The report also refers to JEI and BICS leaders and activists, including women, being arrested for indoor meetings and having cases filed against them for plotting sabotage.
15. Having considered the excerpts as a whole and having agreed with the representatives that we would only refer to the country evidence to which we were referred, we are not satisfied that the country evidence supports the appellant's claim to have a well-founded fear of persecution. The context is of the appellant's very limited involvement with BICS, teaching prayers in a madrassa between 1998 and 2011, which never resulted in any adverse interest. In contrast, the country evidence relates to the adverse treatment of those detained; and the detention of particular individuals involved in social media or demonstrations, or where the particular nature of their activities is not known. We do not go so far as finding that merely low-level activists do not have a well-founded fear of persecution. Rather, we find that to the lower standard, the appellant has not proven his case. We do not accept that teaching prayers at a madrassa for years, during which time he never encountered adverse interest, is analogous to the specific cases cited to us, such as public statements on social media or, for example, attending demonstrations and/or involved in leadership or prominent roles. They are in essence of a public nature, even if the people concerned do not necessarily have any particular seniority. The risk might arise, for example, in the context of violence at a demonstration between rival political student wings, even if the person is a low-level activist. We are not satisfied that the evidence is such that somebody leading prayers within the madrassa would be at real risk. This was the sole remaining issue which was not otherwise adequately resolved by First-tier Tribunal Judge Bulpitt. In the context of the remainder of his findings, we are satisfied the appellant's protection claim and his human rights claims are not well-founded. As a consequence, the appellant's appeal is dismissed.

Decision

16. The appellant's appeal on asylum grounds is dismissed.
17. The appellant's appeal on human rights grounds is dismissed.

Signed: J Keith

Upper Tribunal Judge Keith

Dated: **7th November 2022**

ANNEX: ERROR OF LAW DECISION



IAC-AH-SAR-V1

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Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify him. Failure to comply with this order could amount to a contempt of court. The reason is because the appeal relates to the appellant’s claimed fear of persecution in his country of origin.

Representation:

For the appellant: *Mr A Stedman*, instructed by Wildan Legal Solicitors
For the respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. These are the approved record of the decision and reasons which were given orally at the end of the hearing on 11th July 2022.
2. This is an appeal by the appellant against the decision of First-tier Tribunal Judge Bulpitt (the 'FtT'), promulgated on 16th August 2021, by which he dismissed the appellant's appeal against the respondent's refusal on 15th June 2020 of his protection and human rights claims.
3. In essence, the appellant's claims involved the following issues: whether the appellant, a Bangladeshi national, had a well-founded fear of persecution because of his political loyalty to the Bangladeshi Islami Chhatri Shibir ('BICS') the student wing of Jamaat-e-Islami (JEI), the rival political party to governing political party in Bangladesh, the Awami League. The respondent accepted that he had been a member of BICS, and that he had had some responsibilities whilst at school in that organisation and that he had started an associated organisation called the 'Golden Touch Student Association' or 'GTSA'. The respondent did not, however, accept that the appellant had been targeted by rival AL supporters or that he had been the subject of adverse police attention. The respondent had noted the lateness of the appellant's asylum claim in the context of his immigration history and concluded that his claims to be wanted by the Bangladeshi police had been invented.

The FtT's decision

4. The FtT made a detailed analysis of the evidence before him. We do not recite all of his findings and conclusions. He referred to the Country Policy and Information Note or 'CPIN' of September 2020, at §22, which noted the endemic violence within Bangladeshi politics, but he also noted, at §23, the vagueness of the appellant's alleged activities in BICS and the adverse attention he claimed to have suffered as a result.
5. The FtT did not accept the reliability of evidence from the appellant's then solicitors in 2019, which was the basis of the appellant's claim to have been injured, having faced numerous arrest warrants and his family having been harassed (§26). The FtT did not accept that the appellant was appointed secretary of his local BIC unit or that, at aged 15, he was made president of that unit. At §29, the FtT noted the appellant's progress through university, without difficulty and without political involvement. At §30, the FtT found that the appellant had not suffered violent attention as a result of his involvement either with BICS or GTSA. The FtT considered recent correspondence at §32 to 36, including an alleged arrest warrant, but did not accept the reliability of those documents (§41). At §42, the FtT found that the evidence of the appellant's brother was evasive, vague and unpersuasive.

6. Having considered the evidence as a whole, the FtT found that the appellant did not have a well-founded fear of persecution, nor would his return to Bangladesh breach his human rights.

The grounds of appeal and grant of permission

7. The appellant lodged grounds of appeal. The First-tier Tribunal refused permission in respect of all grounds. On renewal, Upper Tribunal Judge Blum granted permission on one ground only. This was specifically that the FtT had arguably failed to assess whether the appellant could face a real risk of ill-treatment if removed to Bangladesh on the basis of his past and/or perceived support for BICS. In refusing permission on the first ground, Judge Blum noted:

“2. There is no merit in Ground 1. The judge’s adverse credibility findings were multi-faceted, including reference to materially inconsistent accounts and vague and generalised evidence. The judge was aware that the respondent accepted the appellant was a supporter of and “contributed towards some responsibilities” in respect of BICS, but she was nevertheless rationally entitled to find it inherently unlikely that the appellant would be elected to the particular posts he claimed to hold at such a young age. This finding cannot be said to be arguably irrational, even in the context of student organisations (whose focus appears to be mainly at university level).

3. The judge was entitled to draw an adverse inference from the absence of contemporaneous evidence relating to the appellant’s role within the BICS. Whilst there is no requirement for corroborative evidence the judge was entitled to take into account the absence of evidence that she reasonably expected would be available. Further, the judge gave cogent and legally sustainable reasons for finding the recently produced letters unreliable, and for attaching little weight to the evidence relating to the alleged arrest warrant. It was rationally open to the judge to note the period of 7 years that had elapsed between the appellant’s last political activities and the lodging of the warrant. In reaching her conclusions the judge demonstrably considered the appellant’s claim in the context of the background material (e.g. [22]).”

DIRECTIONS

Pursuant to EH (PTA: limited grounds; Cart JR) Bangladesh [2021] UKUT 00117 (IAC), and having regard to the limited grant of permission above:

1. The scope of the ‘error of law’ hearing is limited to Ground 2 of the Grounds of Appeal only.”

The hearing before us

The appellant’s submissions

8. Both parties made focussed and pragmatic submissions, for which we were grateful.
9. On behalf of the appellant, Mr Stedman realistically accepted that the FtT's decision was, in almost all respects, comprehensive, clear and well-structured. He made no criticism of the FtT's credibility findings about the appellant, which he accepted were detailed. His challenge was a narrow, but material one, which meant that the FtT's decision could not stand. It related to the FtT's approach to the respondent's concession about the appellant's involvement with BICS and the GTSA. In particular, the relevant passages of the FtT's decision on the concession and the FtT's analysis are at §§16, 22, 30 and 44, which we set out below:

"16. The respondent accepts that the appellant ... was a supporter of BICS, that he 'contributed towards some responsibilities' in respect of the party whilst he was at the madrasa and that he started GTSA....

*22. The general premise of the appellant's claim, that a supporter of the opposition party in Bangladesh is likely to face persecution from supporters of the ruling AL [Awami League] gains support from the country evidence which has been served including the respondent's own Country Policy and Information Note Bangladesh... 2020 which records at 11.2.1 a "BTI Country Report" which said that 'violence is endemic within Bangladesh politics. Violence was used to suppress protest against the government. Law enforcement agencies engage in arbitrary arrest and use brute force and torture as mechanisms of control'. Likewise the Human Rights Report adduced in the appellant's bundle refers to violence plus indiscriminate arrests and false cases being targeted at leaders and supporters of the opposition parties. **This is the context in which I assess the appellant's case"**.*

[The bold passage is our emphasis]

30.The respondent has conceded the appellant may have been involved with BICS ... and that he was involved with GTSA and I do not go against those concessions however it is very clear that the appellant's evidence about suffering violent opposition as a result of his involvement is unreliable".

44. Like his time at university which he describes as politics free, I find the appellant's behaviour while in the United Kingdom entirely inconsistent with him having a strongly held political opinion which would bring him into decades of conflict and threaten his life. Again, I do not go behind the respondent's concession that the appellant supports JEL and BICS, however the evidence is clear that his support for them is not of the depth or significance that would bring him to the attention of political opponents".

10. The FtT went on to conclude at §46 and 47 that the appellant did not have a well-founded fear of persecution.
11. Mr Stedman argued that the FtT had erred by not explaining what he understood the nature of the respondent's concession to be, in light of all

of his adverse findings about the appellant. Put another way, Mr Stedman asked what the FtT was left with, after the adverse findings and concession?

12. Mr Stedman said that the objective evidence (the CPIN and the Human Rights Watch report) was “open” as to the nature of risk to opponents of the Awami League, in the sense that it did not distinguish between “low” or “high level” supporters and so presented an additional challenge with which the FtT had to grapple.
13. The consequence of the FtT’s failure to explain what he understood the respondent’s concession to mean, in terms of the appellant’s involvement with BICS, resulted in him not engaging with the objective evidence on the risk to BICS supporters, how that evidence related to the activities carried out by an individual supporter, and how the AL supporters might come to know about an individual opponent. The appellant’s case was not one of no involvement, as the respondent had accepted that the appellant had set up the GTSA, a client organisation of BICS. Even minimal involvement might support a well-founded fear of persecution. Mr Stedman gave the practical example, at internal page [125] of the Human Rights Watch report, of a person who merely shared a Facebook post appealing for peace during a student protest, who was allegedly arrested and detained for two weeks, despite her pregnancy.
14. It was the FtT’s lack of explanation or reasoning on the nature of the concession and how it fitted in to the objective evidence which was the material error.

The respondent’s submissions

15. Ms Everett accepted that a finding that someone was a “low level” supporter was not enough and there needed to be clear findings as to what activities a person had engaged in. While there was a tension in the FtT’s decision as to what the respondent’s concession in terms of the appellant’s activities entailed (noting the reference to ‘contributing towards some responsibilities’), except for the respondent’s acceptance that the appellant had set up the GTSA, the FtT had rejected the other claimed activities. When read as a whole, there was no gap in the FtT’s analysis.

Discussion and conclusions

16. We reiterate, as Mr Stedman accepted, that except in one narrow, but material respect, the FtT’s reasons were well structured, clear, and methodical.
17. As the FtT recognised at §22 of his decision, the appellant’s case was that there was a real risk that a supporter of parties in political opposition to the Bangladeshi government or the Awami League, would face persecution from AL supporters. The appellant relied on the objective evidence

already cited. The respondent had accepted that the appellant had set up the GTSA. The question is whether the FtT's analysis, at §44, that the appellant's support for BICS and JEI was "*not of the depth or significance that would bring him to the attention of political opponents*" was sufficiently reasoned. We conclude that that it was not. While it is clear from the FtT's decision that he rejected the appellant's specific claims of other activities and adverse interest, where, as here, there was objective evidence that might be read as meaning that 'mere' support for opposition parties may risk persecution, it was incumbent on the FtT to explain why the appellant's fear of persecution was not well-founded. The FtT's references to depth or significance do not engage with the objective evidence on whether risk depended on such a distinction. We also accept Mr Stedman's challenge that the nature of the respondent's concession, in terms of the extent of the appellant's activities, needed to be explained more fully, and related to the objective evidence on risk.

18. Whilst in all other respects, the FtT's assessment, particularly in relation to the appellant's credibility, cannot be criticised, on the particular point identified, there was a gap in the FtT's analysis, such that the FtT's conclusions on that point are not safe and cannot stand.
19. We turn to the issue of what parts of the FtT's findings it is appropriate to preserve. The error we have identified is narrow, and does not undermine the FtT's conclusions on the appellant's credibility. In that context, we conclude that it is appropriate to preserve the following of the FtT's findings:
 - 19.1 at §§16, 30, 39, that the appellant did not face opposition, attack, or police prosecution in Comilla;
 - 19.2 at §26, that the account put forward by the appellant's then-representatives was fictionalised;
 - 19.3 at §27, that the appellant had not faced adverse interest when JEI was in power with the BNP;
 - 19.4 at §28, that the appellant was not secretary or president of his local BICs unit;
 - 19.5 at §29, that the appellant progressed through his university studies "*problem free*" and "*entirely detached from politics*;"
 - 19.6 at §§35 and 37, that the correspondence and arrest warrant relied on by the appellant were not ones on which any weight could be placed.

Decision on error of law

20. We conclude that there is a material error of law and we must set the FtT's decision aside, subject to the preserved findings set out above.

Disposal

21. With reference to paragraph 7.2 of the Senior President's Practice Statement, the lack of any challenge to the FtT's credibility findings and the very limited scope of the issues, it is appropriate that the Upper Tribunal remakes the FtT's decision which has been set aside.

Directions

22. The following directions shall apply to the future conduct of this appeal:

22.1 The Resumed Hearing will be listed at Field House on the first open date, time estimate 3 hours, with a Bengali (standard) interpreter, to enable the Upper Tribunal to substitute a decision to either allow or dismiss the appeal.

22.2 The appellant shall no later than 4pm, **14 days before the Resumed Hearing**, file with the Upper Tribunal and served upon the respondent's representative a consolidated, indexed, and paginated bundle containing all the documentary evidence upon which he intends to rely. Witness statements in the bundle must be signed, dated, and contain a declaration of truth and shall stand as the evidence in chief of the maker who shall be made available for the purposes of cross-examination and re-examination only.

22.3 The respondent shall have leave, if so advised, to file any further documentation she intends to rely upon and in response to the appellant's evidence; provided the same is filed no later than 4pm **7 days before the Resumed Hearing**.

Notice of Decision

The decision of the First-tier Tribunal contains material errors of law and we set it aside, subject to the preserved findings set out in the Upper Tribunal's reasons.

The Upper Tribunal will retain remaking of the appeal.

The anonymity directions continue to apply.

Signed **J. Keith**

Date: 20th July 2022

Upper Tribunal Judge Keith