



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case No: UI-2021-001295

First-tier Tribunal No: PA/50985/2020

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 9<sup>th</sup> July 2023**

**Before**

**UPPER TRIBUNAL JUDGE SMITH**

**Between**

**E S**  
**(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R Toal and Ms U Dirie, Counsel instructed by Brighton Housing Trust

For the Respondent: Mr D Clarke, Senior Home Office Presenting Officer

**Heard at Field House on Tuesday 23 May 2023**

**Order Regarding Anonymity**

**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 the Appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

## **BACKGROUND**

1. By a decision promulgated on 13 April 2022, I found an error of law in the decision of First-tier Tribunal Judge Kudhail dated 18 October 2021, allowing the Appellant's appeal against the Respondent's decision dated 27 July 2020 which had refused the Appellant's protection and human rights claims. My error of law decision is appended hereto for ease of reference.
2. In consequence of the errors of law found, I set aside Judge Kudhail's decision. However, I preserved the finding that the Appellant is at risk in his home area of Jubaland, Somalia. As I will come to, Mr Toal also submitted that I should preserve other of Judge Kudhail's findings. As I will also come to, the issues in this appeal have narrowed considerably since my error of law decision.
3. In my error of law decision, I gave directions for the filing and service of further evidence. Following extensions of time, the Appellant has filed further evidence. The Appellant also served a skeleton argument (although I have been unable to find any evidence that this was filed). The Respondent failed to file a skeleton argument. Having heard oral evidence from the Appellant and two of his witnesses and oral submissions from Mr Clarke and Mr Toal, I indicated that I would reserve my decision and issue that in writing.
4. I had before me a number of bundles filed by the Appellant as well as the Respondent's bundle. I refer to the Appellant's bundles below as [AB/xx] (in relation to the first bundle before the First-tier Tribunal), [ABS/xx] (in relation to the first supplementary bundle) and [ABS2/xx] (in relation to the supplementary evidence filed for the re-making hearing). I have had regard when reaching my findings and conclusion to all the evidence, both documentary and oral but I set out only that which is relevant to my findings and conclusion.

## **ISSUES**

5. As a result of his experiences when travelling to the UK, the Appellant has been recognised as a victim of trafficking and has been granted a period of discretionary leave until 28 November 2023. As Mr Toal confirmed, this means that the appeal is statutorily abandoned on human rights grounds. The only remaining issue is the protection claim.
6. As noted above, I have preserved the finding that the Appellant is at risk in his home area. The only issue which remains is whether the Appellant can internally relocate to Mogadishu. That issue turns on whether it would be reasonable and not unduly harsh for him to do so, applying the principles set out in cases such as Januzi and others v Secretary of State for the Home Department [2006] UKHL 5. The test which applies is not in issue. It is the application of those principles to the Appellant's case which remains disputed.

7. At the outset of the hearing before me, Mr Toal submitted that I should also limit cross-examination on certain factual issues based on the reasons I gave for finding errors of law and those errors which I did not find to be made out by the Respondent. In particular, Mr Toal submitted that, in light of what I said at [42] of the error of law decision, I ought not to have set aside the finding that the Appellant is not in contact with his family.
8. Mr Toal relied in this regard on the judgment in HF (Algeria) v Secretary of State for the Home Department [2007] EWCA Civ 445 (“HF”). HF was a case under the previous appellate regime where the Tribunal was a unified body. So much is clear from [11] of the judgment. That structure was said to be “strongly relied on ...in support of [the] submission ...that the scope of the issues on the rehearing ...should have been limited”. Whilst I accept that the later appeal structure whereby there is once again a two-tier system still follows a procedure which is not dissimilar to that set out at [13] of the judgment, it is also worth noting that the fact of there being only one and the same tribunal at each stage was considered to be a relevant factor in the determination of that issue (see citation at [14] of the judgment). What is said at [17], [18] and [26] of that judgment has to be read in that context.
9. The position now is governed by the Tribunal, Courts and Enforcement Act 2007. Section 12(2) provides the Upper Tribunal with a discretion whether to set aside the First-tier Tribunal’s decision if it finds an error of law in that decision. If an error of law is not material, the Tribunal may decide not to set aside the decision. If it does proceed to set aside the decision, the Tribunal must either remit the appeal to the First-tier Tribunal for re-making or must re-make the decision itself. It may provide “procedural directions” where it remits the appeal. If it decides to re-make the decision itself, it “may make such findings as it considers appropriate”. The way in which section 12 applies in practice was considered in more detail by the Upper Tribunal in AB (preserved FtT findings, Wisniewski principles) Iraq [2020] UKUT 268 (IAC). As was there said at [37] (by reference to the Court of Appeal’s judgment in Sarkar v Secretary of State for the Home Department [2014] EWCA Civ 195) “[i]t is for the Upper Tribunal to decide the nature and scope of the hearing that is required” for the purpose of re-making the decision. In some cases, a full re-hearing may be required. In others, it may be appropriate to rely on the findings made by the First-tier Tribunal and simply apply those by way of a reassessment of the appeal.
10. For those reasons, I did not find the judgment in HF of determinative assistance. I do not however need to consider whether I was correct not to preserve the finding that the Appellant is not in contact with his family as I was able to agree that Mr Clarke’s cross-examination on this issue should turn on the position as at the current hearing rather than any inconsistency which may have arisen based on evidence given in the First-tier Tribunal (see [32] and [42] of my error of law decision). As it transpired, there remained some inconsistency between the evidence of

the Appellant and that of one of his witnesses on this issue, but it is not such as to influence the outcome. I deal with it below.

## **LEGAL BACKGROUND**

11. At [11] of my error of law decision, I set out the relevant paragraphs of the country guidance given in MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) (“MOJ”). I do not need to repeat those paragraphs.
12. Since my error of law decision, the Tribunal has given further country guidance in relation to Somalia and in particular return to Mogadishu in OA (Somalia) CG [2022] UKUT 00033 (IAC) (“OA”). The parts of the guidance in OA which are potentially relevant to this appeal are as follows:

### “Country Guidance

2. The country guidance given in paragraph 407 of MOJ (replicated at paragraphs (ii) to (x) of the headnote to MOJ) remains applicable.

3. We give the following additional country guidance which goes to the assessment of all the circumstances of a returnee’s case, as required by MOJ at paragraph 407(h).

...

5. Somali culture is such that family and social links are, in general, retained between the diaspora and those living in Somalia. Somali family networks are very extensive and the social ties between different branches of the family are very tight. A returnee with family and diaspora links in this country will be unlikely to be more than a small number of degrees of separation away from establishing contact with a member of their clan, or extended family, in Mogadishu through friends of friends, if not through direct contact.

6. In-country assistance from a returnee’s clan or network is not necessarily contingent upon the returnee having personally made remittances as a member of the diaspora. Relevant factors include whether a member of the returnee’s household made remittances, and the returnee’s ability to have sent remittances before their return.

7. A guarantor is not required for hotel rooms. Basic but adequate hotel accommodation is available for a nightly fee of around 25USD. The Secretary of State’s Facilitated Returns Scheme will be sufficient to fund a returnee’s initial reception in Mogadishu for up to several weeks, while the returnee establishes or reconnects with their network or finds a guarantor. Taxis are available to take returnees from the airport to their hotel.

8. The economic boom continues with the consequence that casual and day labour positions are available. A guarantor may be required to vouch for

some employed positions, although a guarantor is not likely to be required for self-employed positions, given the number of recent arrivals who have secured or crafted roles in the informal economy.

9. A guarantor may be required to vouch for prospective tenants in the city. In the accommodation context, the term 'guarantor' is broad, and encompasses vouching for the individual concerned, rather than assuming legal obligations as part of a formal land transaction. Adequate rooms are available to rent in the region of 40USD to 150USD per month in conditions that would not, without more, amount to a breach of Article 3 ECHR.

10. There is a spectrum of conditions across the IDP camps; some remain as they were at the time of MOJ, whereas there has been durable positive change in a significant number of others. Many camps now feature material conditions that are adequate by Somali standards. The living conditions in the worst IDP camps will be dire on account of their overcrowding, the prevalence of disease, the destitution of their residents, the unsanitary conditions, the lack of accessible services and the exposure to the risk of crime.

11. The extent to which the Secretary of State may properly be held to be responsible for exposing a returnee to intense suffering which may in time arise as a result of such conditions turns on factors that include whether, upon arrival in Mogadishu, the returnee would be without any prospect of initial accommodation, support or another base from which to begin to establish themselves in the city.

12. There will need to be a careful assessment of all the circumstances of the particular individual in order to ascertain the Article 3, humanitarian protection or internal relocation implications of an individual's return.

13. If there are particular features of an individual returnee's circumstances or characteristics that mean that there are substantial grounds to conclude that there will be a real risk that, notwithstanding the availability of the Facilitated Returns Scheme and the other means available to a returnee of establishing themselves in Mogadishu, residence in an IDP camp or informal settlement will be reasonably likely, a careful consideration of all the circumstances will be required in order to determine whether their return will entail a real risk of Article 3 being breached. Such cases are likely to be rare, in light of the evidence that very few, if any, returning members of the diaspora are forced to resort to IDP camps.

14. It will only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which would be reasonable for internal relocation purposes.

15. There is some mental health provision in Mogadishu. Means-tested anti-psychotic medication is available.

..."

## **EVIDENCE AND FINDINGS**

## **Witness Evidence**

13. The interpreter for the hearing before me joined remotely. He encountered some technical difficulties in doing so. In the meanwhile, Mr Toal took instructions from the Appellant as to how he wished to proceed and was instructed that the Appellant would prefer in any event to give evidence in English with assistance from the interpreter only insofar as he needed clarification of certain words. The interpreter was able thereafter to join the hearing and it was confirmed that the Appellant and interpreter understood each other but the Appellant gave evidence, as he wished to do, in English with little intervention from the interpreter.
14. In light of the medical evidence about the Appellant's mental health to which I will come below, I agreed with Mr Toal that the Appellant should be treated as a vulnerable witness. The Appellant was told that if he required any breaks at any time during his evidence he should ask. He did not do so. I have approached his evidence in accordance with the Joint Presidential Guidance Note No 2 of 2010 and what is said in AM (Afghanistan) v Secretary of State for the Home Department [2017] EWCA Civ 1123.
15. The Appellant adopted his witness statements which are as follows:  

27 June 2018: [AB/13-19]

28 February 2019: [AB/11-12]

16 October 2019: [AB/7-9]

14 September 2020: [AB/3-6]

28 September 2021: [ABS/7]

15 June 2022: [ABS/6]

6 July 2022: [ABS/4-5]
16. A large part of the Appellant's evidence is accepted. It is not disputed that the Appellant left Somalia in 2010 when he was aged about nine years old. It is also accepted that he has not returned there since. I have already noted that the finding that the Appellant is at risk in his home area of Jubaland is preserved. It is not disputed that the Appellant has never lived in nor indeed visited Mogadishu.
17. The other somewhat unusual feature of this Somali case is that the Appellant has no or no significant links with the Somali community in the UK. Given his age when he arrived in the UK in October 2017 (seventeen years old), the Appellant was placed in the care of the local authority. He lived with foster carers, John Hammond and his wife. Neither has any Somali connections. Both continue to support the Appellant as I will come to. Both attended the hearing and Mr Hammond also gave evidence with

which I deal below. Mr Hammond's statements dated 17 November 2020 and 7 July 2022 appear at [AB/61-62] and [ABS/8-9].

18. In addition to the oral evidence of the Appellant and Mr Hammond, I also heard evidence from Ms Pamela Middleton who is the Appellant's personal adviser (as a result of the NRM referral) and works for East Sussex County Council as a Personal Adviser and Educational Caseworker in the Through Care (UASC) team. Her letter in support dated 17 May 2022 and statement dated 16 May 2023 appear at [ABS/75-77] and [ABS2/5-7] respectively.
19. Although the Appellant has had no links with or lived among the Somali community in the UK, he volunteered in his evidence that he has made a friend who lives in Manchester and is Somali. The Appellant met him in Croydon. The Appellant speaks to him a couple of times each week. However, this is not a long-standing relationship. They have only known each other for a few months. I accept that the Appellant knew little about him or his circumstances in Somalia or the UK.
20. One area of dispute as I have already indicated is the extent if any to which the Appellant has maintained contact with his family be they in Somalia or elsewhere. The Appellant's evidence is that he was not in contact with his family at the time of the hearing before the First-tier Tribunal and has not been in contact with them since then. In his statement dated 6 July 2022 ([ABS/4-5]), the Appellant says that he had not been able to make contact with his sister since his statement dated 28 September 2021. In that statement ([ABS/7]), he says that he had not been in contact with his sister since "about two years ago". The Appellant says that he has no relatives in Somalia with whom he remains in contact.
21. As I have indicated, there was some inconsistency in the evidence given by Mr Hammond at the time of the First-tier Tribunal on this issue. Mr Hammond's evidence on this occasion was that the Appellant was not currently in contact with his family "to [his] knowledge". The Appellant no longer lives with Mr Hammond so Mr Hammond might not be aware of any contact. However, Mr Hammond said that if the Appellant were in contact, he considers that the Appellant would tell him about it.
22. On this occasion, though, there was some inconsistency on this issue raised by Ms Middleton's evidence. She said that the Appellant was in contact with his sister when Ms Middleton and the Appellant first met but that he had not had such contact "for a long time now". Ms Middleton confirmed that she first met the Appellant in May 2019. At that time, the Appellant had been in contact with his sister by phone occasionally. However, by the time of the hearing before me, the contact had ceased "at least two years ago". That would suggest some contact in 2020 or 2021 whereas the Appellant's evidence would suggest that he had no contact since mid-2019.

23. I am for that reason sceptical about the Appellant's evidence in this regard. Ultimately, though, I do not need to reach any firm finding about this since, first, all the evidence suggests that any contact ceased at the latest in 2021 and, second, because Mr Clarke was prepared to accept that the Appellant no longer had contact.
24. The issue therefore becomes one of whether it would be unduly harsh to expect the Appellant to go to live in Mogadishu on his own. This turns on his personal characteristics, his ability to find accommodation and work without support and the support he might receive from those in the UK (in essence Mr Hammond).
25. Dealing with this last issue first, Mr Hammond and his wife remain in constant contact with the Appellant even though he no longer lives with them. Mr Hammond meets up with the Appellant on a regular basis. It was very clear from the support they gave him at the hearing, that they have a close bond with him. Ultimately, however, their ability to support the Appellant in Somalia is a very different matter.
26. Mr Hammond very fairly accepted that he and his wife do continue to provide some financial support to the Appellant to help with food, bills, phone credit and the like. Although he and his wife are teaching assistants with two children of their own and do not earn a particularly high wage, they own their own home and have been providing some assistance to the Appellant in the UK. When asked whether they would help if the Appellant were returned to Somalia, again very fairly, Mr Hammond accepted that he would "make sacrifices to help" but also said that the family were "not rich" and could not commit to providing regular amounts. Nor did he know how that would work practically as he had no experience of sending money to Somalia.
27. Mr Clarke relied on this support to some extent. However, his primary submission was that the Appellant would benefit from money from the UK Government by way of the Voluntary Assisted Returns ("VAR") scheme which would allow him to live comfortably whilst he found a job and accommodation. Mr Clarke drew my attention to a copy of the VAR scheme document. He drew my attention to what is said in OA about the cost of living in Mogadishu ([7] and [9] of the headnote). As Mr Clarke pointed out, OA was a foreign national offender and was therefore entitled to only £750 whereas the Appellant would potentially benefit from a sum of £3000. I reject Mr Toal's submission that I should not accept that figure which appears in the VAR scheme document. I proceed on the basis that this is the figure which would be available.
28. Turning back then to the Appellant's personal characteristics, Mr Clarke sought to show that the Appellant has some skills and work experience in the UK.
29. At [15] of his statement dated 14 September 2020 ([AB/5]), the Appellant said that he was studying a three-year course of Sports and Public



Services. He was at that time in his second year. He also says that in the future, he would like to become a pharmacist. He was studying science on YouTube and would like to take GCSEs and go to university.

30. In his oral evidence, the Appellant said that he had not completed his course because of his mental health. He also admitted that this was because of the pandemic. The course had moved online, and he could not complete that due to his mental health. He accepted however that the course involved written work in English. I was able to observe for myself that the Appellant's spoken English is good. He has completed Level 2 English and Level 1 Mathematics. The Appellant also accepted that he speaks and writes in Somali.
31. The Appellant has recently found employment (he is entitled to work as he has discretionary leave). He has only been working for a few weeks in a food factory. He said (and it was not disputed) that the job had been found for him by a coach at the job agency. The Appellant works shift patterns over three days per week, eight hours per day.
32. The Appellant's evidence was that, although he has not been working very long, he has already taken time off sick due to his mental health problems. He said he had missed two days although did not produce any evidence of this. Nonetheless, I accept his evidence which was unshaken on the point.
33. When asked why he could not find work in Mogadishu if removed there, the Appellant said that it was not safe, and he did not know anyone who could support him. He repeated that he had been assisted by a coach to find his job in the UK. He has no skills and would need to know someone to get a job. He would have no-one to support him and had not lived in Somalia since 2010.
34. I turn then finally to the witness evidence about the Appellant's mental health condition. I deal in a separate section below with the expert evidence in this regard.
35. In his statement dated 6 July 2022 ([ABS/4-5]), the Appellant says that he was prescribed anti-depressant medication by his GP until he could see a therapist. In his oral evidence, the Appellant admitted that he was no longer taking any medication. He had been on Sertraline and although the GP had advised him to continue with this, he had stopped after a month or so because the medication made him feel worse. I do not consider that this casts doubt on the genuineness of the Appellant's mental health condition. If anything, it is to his credit that he is seeking to improve his condition by himself although it might also be said that his ability to do so demonstrates some resilience.
36. The Appellant is currently seeing a therapist for his mental health problems. That he is struggling mentally is confirmed by Ms Middleton who, in her first letter ([ABS/75-77], alerted the Appellant's solicitors to these problems. In summary, she says that the Appellant has found it

difficult to concentrate on studies (so much so that he had to leave his course). She also said that the Appellant had trouble sleeping, had lost weight, feels tired and had lost energy. He was also isolating from friends. All that is broadly consistent with the Appellant's own evidence.

37. Ms Middleton confirms in her statement ([ABS2/5-6]) that the Appellant's mental health problems continue despite the grant of discretionary leave. She said in her oral evidence that "although he tries to be well, he has real dips in his mental health and well-being". She described the Appellant as "not having much resilience left". She said that when he faces problems, he finds it difficult to rise above them whereas in the past he could "still function". In my non-expert view, that is consistent with the change in the Appellant's own evidence from someone who appeared in his early statements to have plenty of ambition and motivation to succeed to the young man who gave evidence before me and who appeared to be deflated. I therefore fully accept Ms Middleton's evidence about the impact of the Appellant's mental health condition on his daily life and resilience.
38. It is worthy of note that Ms Middleton has remained in contact with the Appellant despite her moving to a different role because she considers him to be particularly vulnerable due to the trauma he had suffered in the past and the time it had taken to resolve his immigration status.
39. The therapy which the Appellant is receiving, and symptoms are also confirmed by the Appellant's therapist, Ms Sam Reidie, MCAP (a psychotherapist with the British Refugee Council's My View therapy project) in her letters dated 27 September 2022 and 11 May 2023 (at [ABS2/11-12] and [ABS2/13-14]). Although Ms Reidie records a break in the Appellant's therapy, Ms Middleton confirmed that the Appellant has started to see his therapist again and she considers it beneficial for him to continue therapy. Mr Clarke said that I should not give weight to Ms Reidie's evidence as she has not provided information about her qualifications and experience to assess the Appellant. I have not treated this as expert evidence but merely confirmation as to the therapy which the Appellant has received and continues to receive. That the Appellant requires continuing treatment for his mental health problems is in any event corroborated by the grant of discretionary leave which is for this purpose.

### **Expert Evidence**

40. As discussed in my error of law decision, I have before me an expert country report from Ms Mary Harper dated 26 September 2020 ([AB/65-94]) and a supplementary report dated 23 February 2021 ([ABS/116-123]). However, given that these reports pre-date the guidance in OA and that the Tribunal in OA considered Ms Harper's evidence as part of the material leading to that guidance, I do not consider it necessary to set out what is said in those reports, preferring to refer to OA itself as to country conditions in Somalia.

41. I also have a scarring report of Professor David Roberts, MBChB, D.Phil, MRCP, FRCPath, dated 6 July 2022 at [ABS/10-36]. That report is not disputed but is not relevant to my consideration save insofar as it informs the Appellant's current mental health and personal characteristics. The report focusses on the Appellant's mistreatment during his journey to the UK. That mistreatment is accepted by the recognition of the Appellant as a victim of trafficking and the grant of discretionary leave in consequence.
42. The impact of the mistreatment and other factors is the subject of the psychological report of Alice Rogers CPsychol AFBPS dated 14 June 2022 at [ABS/37-62]. She diagnoses the Appellant with PTSD at a moderate level. She opines that this has been caused by "multiple, severe traumata". In her opinion, the Appellant has coped in the past but "his protective factors have fallen away, and as his mood has deteriorated, he has become less able to engage with sports, education and social interaction". She also considers that his "mental health has deteriorated considerably since his refusal to remain in the UK". As a result, he has "developed a depressive episode and a Generalized Anxiety Disorder" both to a severe level. In Ms Rogers' opinion, the Appellant's daily activities such as eating, sleeping and energy levels are "all highly impaired" because of his mental health problems.
43. The substance of Ms Rogers' report as regards the Appellant's level of functioning is consistent with the Appellant's own evidence and that of his other witnesses. Mr Clarke did not dispute the evidence in general terms. I accept it as indicative of the Appellant's current level of functioning and the impact which changes in his living situation and immigration status have had on his mental health.
44. Although the focus of the Appellant's health problems is his mental health, he also suffers from hepatitis B and latent TB as confirmed by a letter dated 21 August 2018 from Dr Therese Christopherson, Respiratory Consultant, East Sussex Healthcare NHS Trust ([AB/172]). Dr Christopherson confirms that both conditions are asymptomatic but there is a prospect of re-emergence of symptoms/ active TB if the Appellant becomes unwell.

### **Other Evidence**

45. The Appellant has included in his bundles background material regarding the situation in Somalia. As with Ms Harper's report, I do not consider it necessary to deal in any detail with that material most of which pre-dates the documentation considered in QA.
46. The material which post-dates that considered in QA is to be found in the Appellant's supplementary bundle and second supplementary bundle and is principally concerned with the effect of natural disasters on Somalia, principally drought conditions and famine.
47. Mr Toal took me to a report of the Finnish Immigration Service dated 7 August 2020 recording a fact-finding mission to Mogadishu which it

carried out in March 2020 ([ABS/152-200]) which he submitted had been accepted by the Tribunal in OA. In particular he referred to the high level of unemployment in Mogadishu and competition for work. The references at ([ABS/185-186]) do however make the point that there are no formal statistics in relation to unemployment, that job opportunities for unskilled labour do still exist and that those returning from abroad with better education are at an advantage compared with those living in Somalia or displaced within that country. In any event, as I have noted, the Tribunal in OA took this evidence into account when giving its guidance. Whilst Mr Toal is right to observe that the evidence in this report was accepted by the Tribunal in OA, reference to it is not in the context of employment. In any event, however, the overall tenor of the report is that jobs are still available.

48. Mr Toal also took me to news reports published by ReliefWeb in June and July 2022 ([ABS/128-138]) which report on the impact of the drought and famine which had forced more than 800,000 people to flee their homes. He also referred to a report at [ABS/211-255] dated September 2019 (in particular at [ABS/245-248]) relating to the difficulties which he submitted a young, single man would face in finding accommodation in Mogadishu.
49. Mr Toal submitted that I should place great weight on a report at [ABS/143-148] showing the Integrated Food Security Phase Classification (IPC) scale for Acute Food Insecurity in Somalia in the period June to September 2022. The IPC report as updated on 25 April 2023 is at [ABS2/47-52]. Mr Toal took me to a document setting out the phase descriptions, classified from Phase 1 to Phase 5. Whilst I accept that the more recent report shows that some areas of Somalia are in Phase 3 (crisis), despite some improvement in the situation since 2022, that also suggests that those affected in Mogadishu are the internally displaced and that the crisis is at least worse in rural areas (as might be expected). As I noted in the course of Mr Toal's submissions, the impact in Mogadishu appears from this report to be mainly if not wholly caused by the population changes caused by climate issues rather than the climate issues themselves. The IDP reports are in my view irrelevant to the issue before me.

## **DISCUSSION AND CONCLUSIONS**

50. As Mr Toal submitted and I accept, the impact of the preserved findings, concessions by the Respondent and evidence I have accepted is as follows:
- (1) The Appellant is at risk in his home area and cannot be expected to return there.
  - (2) In terms of a place of internal relocation, the Respondent puts forward only Mogadishu.
  - (3) The Appellant has never lived in Mogadishu.

- (4) The Appellant left Somalia when he was a child.
  - (5) The Appellant has no family, friends or contacts in Mogadishu to whom he could turn.
  - (6) The Appellant is not in contact with his uncle who arranged his journey to the UK.
  - (7) The Appellant has no clan support from the UK.
  - (8) The Appellant is not part of a diaspora community in the UK. He has only one friend living in Manchester who is a very recent contact and to whom he does not feel able to turn for assistance (and about whom I have little evidence as to the support he could offer).
  - (9) The only financial support from the UK would therefore come from Mr Hammond. Whilst Mr Hammond would provide support in a crisis, he is not in a financial position to make regular payments and would not know how to provide that support or any practical support to the Appellant if he were returned to Somalia.
51. Against that, Mr Clarke submits that the Appellant is a young man who speaks Somali. Whilst he may have no support network in Mogadishu immediately on return, the amount which he is likely to receive from the VAR scheme of £3,000 would be sufficient to provide him with accommodation for a fairly long period whilst he found work and was able to support himself. In addition, he could look to Mr Hammond in an emergency. He might also be able to make contacts via his Somali friend in the UK. Mr Clarke drew my attention to the guidance in QA that “[a] returnee with family and diaspora links in this country will be unlikely to be more than a small number of degrees of separation away from establishing contact with a member of their clan, or extended family, in Mogadishu through friends of friends, if not through direct contact”. Unusually, however, this Appellant has neither family nor diaspora links in the UK save for his one friend who is a very recent contact. I have no information about whether that friend could provide any useful support (although I recognise that the absence of evidence does not prove that such support would not be forthcoming).
52. As Mr Toal submitted, this case turns largely on the Appellant’s ability to find work with no support network and then to find accommodation. Even if I accepted Mr Clarke’s submission that the Appellant’s Somali friend might be able to help to establish some form of contact in Mogadishu, the extent of that support is highly uncertain. I therefore consider that I should proceed on the basis that the Appellant would have no contacts at all.
53. Mr Toal accepted that the Appellant has received some education in the UK. It was common ground that, apart from the work which the Appellant undertook when he was trafficked into the UK (upon which quite rightly the

Respondent places no reliance), the Appellant's only work experience has been limited to a few weeks of unskilled work.

54. Dealing with the Finnish fact-finding report (to which I refer at [47] above), Mr Clarke pointed out that this was before the Tribunal in OA. Mr Clarke therefore urged me to rely on the guidance in OA that "casual and day labour positions are available". I accept that is the position. As I observed when dealing with the Finnish fact-finding report, the overall tenor of the report is that jobs are still available, particularly unskilled positions. Although the Appellant's work experience in the UK is very recent, it is unskilled work. Moreover, he has some additional qualifications - namely in Maths and English - which might put him in a better position when applying for jobs.
55. Mr Toal for his part took me through [344] to [352] of MOJ. In short summary, the Tribunal there found that there was substantial inward investment leading to the creation of a large number of jobs. As Mr Toal submitted and I have accepted in the context of the fact-finding report, there are no precise numbers put on the availability of jobs and what is there said is largely impressionistic. However, I do not consider that this lessens the weight of the guidance, as repeated in OA, that in general there are jobs available. The Tribunal in MOJ rejected the appellants' case that only "a very tiny elite" benefit from the economic boom and that the vast majority of inhabitants of Mogadishu were "struggling to survive".
56. I have already mentioned in the context of the Finnish fact-finding report the view that those returning from the West may be at an advantage. In MOJ, that was said to be because those returnees were "likely to be better educated and considered more resourceful and therefore more attractive as potential employees". There is of course an issue in this case whether that can be said of the Appellant, given, in particular, his mental health issues. As Mr Toal submitted, and I accept, the finding in MOJ and OA is not in any event that any fit returnee is bound to find work and there is recognition in the guidance that there is some competition for work.
57. There was some lengthy discussion at the hearing about the need for a guarantor for both employment and accommodation.
58. As Mr Clarke pointed out, the guidance in OA is that a guarantor is not required for hotel accommodation and basic hotel rooms can be obtained for around US\$25 per night. The Appellant, in receipt of £3000, would therefore be able to afford hotel accommodation for at least a month or so even allowing for the need to pay for food and other essentials. Mr Clarke accepted however that a guarantor would be needed for employment, albeit not self-employment, and accommodation in the longer term.
59. Mr Toal submitted at one point that a guarantor in this context is formal in nature and would involve that person putting his reputation on the line and might even involve some form of financial guarantee. I can find no evidential support for that submission in OA.

60. At [275] of OA, dealing with Mr Toal’s similar submission in those cases, the Tribunal rejected it:

“275. For longer-term accommodation, a returnee would require a guarantor. Mr Toal submitted that the country evidence demonstrates that the appellant would be unable to secure accommodation as he would not have a guarantor. In our judgment, it is necessary to qualify what is meant by the term ‘guarantor’ in this context. The position presented by the background materials suggests that the term ‘guarantor’ is a broad concept, and can refer to a spectrum of informal to formal roles. For example, Ms Harper relied on the 2019 TANA working paper, *Shelter provision in Mogadishu*, page 18, as authority for the proposition that a guarantor is required to secure accommodation and housing finance. However, we consider that it is important to place the extract of the TANA report relied upon by Ms Harper in context; the requirement for a guarantor was highlighted at part 2.3 of the report, which primarily addresses the need for a guarantor in relation to formal land transactions; when seeking a housing loan, negotiating transactions requiring the local chieftaincy’s agreement, purchasing land, as well as accessing formal rental opportunities. It was not addressing less formal guarantor arrangements, whereby an established resident of the city vouches for a prospective tenant (or employee: see below). At part 3.2, the TANA report also draws a distinction between access to shelter and services by the ‘urban poor’ and more formal transactions of the sort involving a guarantor, thereby underlining the need to understand the concept of a ‘guarantor’ in context.

276. We accept, however, as the 2019 TANA report makes clear at page 14, that having clan or family links in an area is likely to be a significant factor in choosing to locate to that area, and consequently being accepted and settling in the area. We find that the term guarantor also refers to a person who is able to make informal connections and introductions to pave the way for a returnee finding accommodation and work (as with the Reer Hamar returnee encountered by Ms Harper on a plane to Mogadishu: see paragraph 15 of Annex 1), and not simply to an individual willing to assume a more formal role, as we set out above. At part 4.1 on page 30 and following, the 2019 TANA report outlines the typical processes involved in seeking accommodation in an IDP camp: ‘referrals and word of mouth are strong determinants of where IDPs settle...’ The FIS *Fact-finding mission to Mogadishu in March 2020* report speaks of the need to obtain a ‘local person who can vouch for the tenant’ when seeking accommodation, without addressing the clan status of that individual (page 32, our emphasis). These materials demonstrate that the term ‘guarantor’ is capable of having a less formal meaning, and a correspondingly lower threshold than its formal equivalent.”

61. Ultimately, though, I consider that the issue of formal or informal guarantor has less impact in this case than I had first thought. As Mr Clarke made clear at several points in his submission, the Respondent’s case is that the Appellant would not have to resort to an IDP camp. Although the Tribunal in OA pointed to improvements in the conditions in those camps, the Tribunal did not alter the guidance given in MOJ that, in an IDP camp, “there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards”. What is said at [276] of OA about securing accommodation in an IDP camp may be ignored. The issue then becomes whether the Appellant would be able to find a “local

person who can vouch for [him]” when seeking accommodation. If he were able to find employment, he might be able to look to his employer for such assistance which then brings me back to the issue whether the Appellant is likely to find work.

62. Before returning to the issue of employment, I also reject Mr Toal’s submission that, in general, the Appellant would be at a disadvantage as a young, single male when it comes to finding accommodation. The Tribunal dealt with this submission at [277] and [278] of OA as follows:

“277. As to the prospects of obtaining a suitable guarantor, even for a less formal property transaction, certain factors are relevant. Ms Harper’s evidence, based upon *Shelter Provision in Mogadishu*, was that certain categories of prospective tenants may encounter discrimination and obstacles to obtaining a guarantor, and in turn, accommodation in the rental market. The indicative categories are female-headed households and women, people with disabilities and other vulnerable health conditions, and young single men (see page 35).

278. We consider that it is important to place this aspect of Ms Harper’s evidence in the context of the broader topics under consideration in *Shelter Provision in Mogadishu*, especially in relation to young single men. The context for the working paper’s discussion of the vulnerability factors highlighted by Ms Harper was the mass internal migration that Somalia has witnessed in recent years; ‘the displaced community, who often lost their livelihoods when they left their place of origin and whose savings (if they had any) dwindled as they made their way to Mogadishu to find a new home’ (page 35). *Shelter Provision in Mogadishu* was not addressing the position of returnees from the West, who, of course, are significantly underrepresented in IDP camps and informal settlements. Nor is there any indication that the vast numbers of urban poor and internally displaced would be in receipt of remittances; indeed, in a passage not addressed by Ms Harper, those who ‘combine one or several jobs with receiving remittances from abroad that allow them to have a sufficient income’ are specifically highlighted as ‘those who have sufficient wealth to house themselves decently’. The experience of such persons is consistent with those who, as *MOJ* held in findings we have not disturbed, will be able to benefit from the ‘economic boom’ and, at least initially, return with the benefit of the Secretary of State’s Facilitated Returns Scheme.”

63. Whilst I accept that the Appellant does not fall into the category of those in receipt of remittances from abroad, I have accepted that he would receive money from the UK Government (and well in excess of the figure considered in OA which was a criminal deportation appeal). The Appellant would not be at any or any significant disadvantage in relation to accommodation therefore, provided he could find even an informal guarantor, which I find would itself require him to make some contacts and/or find work in Mogadishu.
64. If the position had been as it appeared to be at the time of the Appellant’s earlier witness statements that he was an able-bodied, resilient young man, I would probably have found that he could find work and would have the wherewithal to work out how society in Somalia



generally and Mogadishu in particular operates. He would be able to find employment and therefore accommodation.

65. I am however unable to come to that conclusion in the light of recent developments. The Appellant has been accepted to be a victim of trafficking. His recent willingness to face up to the trauma he experienced on his journey to the UK has had a profound impact on his mental health.
66. In general, Mr Clarke did not dispute the medical evidence of Ms Rogers. He accepted her expertise. He did not impugn her qualifications. He was content that I should take her diagnosis at its highest. The Respondent accepted that the Appellant has suffered traumatic experiences (as reflected by the grant of discretionary leave following the recognition of the Appellant as a victim of trafficking).
67. However, Mr Clarke suggested that in the context of the overall medical records, I should reject what is said at [7.5] of the report about the impact of the Appellant's mental health on his coping mechanisms. I decline to do so. Whilst I have recognised that the Appellant's decision to stop taking anti-depressants might indicate some resilience on his part, the other evidence, particularly that of Ms Middleton, is consistent with a change in the Appellant. As Ms Middleton said in her evidence, in the past, the Appellant had managed to overcome problems by himself but is no longer able to do so. That is consistent with what Ms Rogers observed during her examination of him. Whilst I am no expert, I have also indicated my own observation of the Appellant when he gave evidence as a deflated young man, contrary to the impression given by his earlier statements of an ambitious and resilient individual.
68. The opinion of Ms Rogers is that the Appellant "is in a highly fragile state" where his daily functioning is being affected. Ms Rogers attributes this decline to the Appellant feeling unsafe knowing that he might be removed from the UK. She says that the deterioration might be worse if he found himself in what he perceives as an unsafe country. Whilst the safety of Mogadishu is not an issue which I have to determine and the guidance suggests that it is not so unsafe as to preclude returns, it is the perception of the Appellant which matters as, perhaps understandably given his experiences as a child, he views Somalia generally as unsafe.
69. Moreover, the Appellant would have no support system in Mogadishu. He has never lived there. He has no family, friends or any contacts there. I accept he is from a majority clan and might be able to obtain clan support. However, he left Somalia as a child and has no diaspora experience of how clans operate. Even in the safety of the UK and with the high level of job vacancies which we see in this country, the Appellant needed help from a coach to find an unskilled position. Mr Hammond is in no position to assist the Appellant practically as he has no knowledge of Somalia. The Appellant has a new Somali friend but, as I have already found, I have no sufficient evidence on which to find with any degree of certainty that this

friend would be able to assist the Appellant. I do not even know if that friend is familiar with or has contacts in Mogadishu.

70. On his own evidence, even in the short period for which the Appellant has been employed in the UK, he has had to take time off work due to his mental health and the impact that is having on him physically. I do not see any real prospect of him securing employment in the short to medium term in Somalia where he knows no-one, has no support and with his limited employment experience. This is not an individual (at least at the present time) who is likely to have the wherewithal to set up his own business. The money to which he would be entitled on return from the UK Government might last him a month or two but the impact of his mental health condition on his physical health and coping mechanisms is such that, even after that amount of time, I do not see any real prospect of him finding himself a job. There is a real risk that he would find himself without employment. Without employment, he would not find accommodation.
71. Having carefully considered the evidence and the guidance in both MOJ and OA, I have come to the conclusion in this unusual case, that returning the Appellant to Mogadishu would be unduly harsh. As is said at (14) of the headnote in OA (replacing (xi) of the headnote in MOJ), it is “only .. those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which would be reasonable for internal relocation purposes”. That is the situation in which the Appellant would find himself.
72. For those reasons, I conclude that it would be unduly harsh to return the Appellant to Mogadishu. Having preserved the finding that the Appellant would be at risk in his home area of Somalia, I therefore conclude that removal of the Appellant to Mogadishu would breach the UK’s obligations under the Refugee Convention and his appeal succeeds on protection grounds. As I have already noted, the appeal on human rights grounds is statutorily abandoned following the grant of discretionary leave to the Appellant.

## **NOTICE OF DECISION**

**Removal of the Appellant would breach the UK’s obligations under the Refugee Convention.**

**The appeal is allowed on protection grounds.**

L K Smith

**Upper Tribunal Judge Smith**  
Judge of the Upper Tribunal

Immigration and Asylum Chamber  
**21 June 2023**

**APPENDIX: ERROR OF LAW DECISION**



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

Appeal Number: UI-2021-001295  
PA/50985/2020

**THE IMMIGRATION ACTS**

**Heard at Field House, London  
On Friday 8 April 2022**

**Determination promulgated  
.....13 April 2022.....**

**Before**

**UPPER TRIBUNAL JUDGE SMITH**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**ES**

**[Anonymity Direction Made]**

Respondent

**Representation:**

For the Appellant: Mr D Clarke, Senior Home Office Presenting Officer

For the Respondent: Mr R Toal, Counsel instructed by Brighton Housing Trust

**Anonymity**

*Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008*

An anonymity order was made by the First-tier Tribunal. As this appeal involves a protection claim, I consider it is appropriate to continue that order. Unless and until a Tribunal or court directs otherwise, the Respondent is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies, amongst others, to

both parties. Failure to comply with this direction could lead to contempt of court proceedings.

## **DECISION AND DIRECTIONS**

### **BACKGROUND**

1. This is an appeal by the Secretary of State. For ease of reference, I refer to the parties as they were before the First-tier Tribunal. The Respondent appeals against the decision of First-tier Tribunal Judge Kudhail dated 18 October 2021 (“the Decision”). By the Decision, the Judge allowed the Appellant’s appeal on asylum and human rights grounds against the Respondent’s decision dated 27 July 2020. The Respondent rejected the Appellant’s claim on all grounds.
2. The Appellant is a Somali national now aged twenty-one years. He claims to have left Somalia aged nine years and travelled to Ethiopia where he remained with his mother and siblings until 2015. He then travelled to Somaliland and returned to Ethiopia from where he travelled via Libya and Switzerland to Germany. His asylum claim in Germany was refused. He then travelled via France to the UK, entering illegally and claiming asylum on 27 November 2017.
3. The Respondent accepted the Appellant’s claim as to past events but did not accept that he would be at future risk nor that he could not internally relocate. The Judge accepted that the Appellant would be at risk from Al-Shabab on return to his home area in Jubaland. The Respondent has not challenged that finding. The Judge went on to find that it would not be reasonable for the Appellant internally to relocate to Mogadishu. For the same reasons, she concluded that relocation to Mogadishu would breach Article 3 ECHR. That finding is challenged. The Judge also found in the Appellant’s favour on Article 8 grounds, concluding that there would be very significant obstacles to his integration in Somalia based on his personal circumstances. The Respondent has not directly challenged that finding but part of the Judge’s reasoning relies on facts found by the Judge in relation to internal relocation which are challenged.
4. I do not at this stage set out the Respondent’s pleaded grounds as Mr Clarke accepted in his submissions that many of the points made could not be sustained. Permission to appeal was granted by First-tier Tribunal Judge Karbani on 23 November 2021 in the following terms so far as relevant:
  - “... 2. The grounds aver the Judge made a material misdirection of law on a material matter, namely that she considered the risk of an imminent indiscriminate attack was relevant to determining there being risk of persecution rather than humanitarian protection.
  3. Further, it is averred that the Judge failed to provide adequate reasons for accepting the evidence of the appellant having lost contact with his sister despite three separate versions as to how that happened.

4. Both grounds disclose arguable errors of law.
5. Permission to appeal is granted.”

There has been no rule 24 response from the Appellant.

5. The appeal comes before me to decide whether the grounds disclose an error of law in the Decision. If I conclude that they do, I then have to decide whether to set aside the Decision in consequence and, if I do set it aside, whether to remit the appeal or retain it in this Tribunal for re-making.
6. I had before me a core bundle of documents including the Respondent’s bundle and the Appellant’s bundle before the First-tier Tribunal (referred to as [AB/xx]) together with some loose documents including the Respondent’s review (“the Review”) and supplementary statements from the Appellant to which I do not need to refer. I was also referred by both parties to the country guidance decision in force at the time of the First-tier Tribunal hearing, MOJ & Ors (Return to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC) (“MOJ”) and by Mr Clarke to AAW (expert evidence – weight) Somalia [2015] UKUT 00673 (IAC) (“AAW”).

## **DISCUSSION AND CONCLUSIONS**

7. There is some overlap between the grounds but I take them in the order pleaded.

### **Ground One**

8. This ground as pleaded takes issue with the Judge’s finding of risk on return in the Appellant’s home area as being insufficiently reasoned. It is also suggested that the finding of risk on return to Mogadishu is based on there being a risk of indiscriminate attack by Al-Shabab engaging Article 15(c) of the Qualification Directive. It is asserted that the appeal could only be allowed on that basis on humanitarian grounds. Mr Clarke abandoned both aspects of that ground. He was right to do so. The Respondent accepted the Appellant’s account as to past events ([31] of the Decision). Paragraphs [42] to [45] of the Decision set out the Judge’s reasons for finding the Appellant to be at risk on return to Jubaland. The findings made about the position in Mogadishu are, as Mr Clarke accepted, in the context of internal relocation there and therefore determinative of the asylum claim rather than being related to Article 15(c).
9. I turn then to the part of the first ground on which Mr Clarke continued to rely which reads as follows:

“In relation to the FTTJ findings regarding the expert report it is submitted that the FTTJ has failed to acknowledge the criticisms raised in the review nor the points raised by the Respondent.”

10. At (viii) of the Review under the heading “[D] Bespoke Evidence”, the Respondent takes issue with the Appellant’s expert report dated 27 September 2020 which is at [AB/65-94] (“the Expert Report”). The Expert Report is that of Ms Mary Harper. Ms Harper’s evidence was, as the Respondent notes, criticised in certain respects both in MOJ and in AAW. Although the Review does not specifically refer to the paragraphs of the Expert Report to which Mr Clarke took me, the general point is made that the Tribunal should have regard to MOJ and AAW and compare Ms Harper’s evidence here with what was said about her evidence in those cases.
11. I turn then to the relevant parts of MOJ to which I was referred, beginning with the headnote. The only relevant paragraphs are [ix] and possibly [x] which read as follows:

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

circumstances in Mogadishu before departure;

length of absence from Mogadishu;

**family or clan associations to call upon in Mogadishu;**

**access to financial resources;**

**prospects of securing a livelihood, whether that be employment or self-employment;**

**availability of remittances from abroad;**

means of support during the time spent in the United Kingdom;

why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.

(x) **Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.”**

[my emphasis]

12. The expert evidence received by the Tribunal in MOJ is set out at [46] to [201] of the decision. Ms Harper’s evidence to the Tribunal is set out at [161] to [201]. That is the section of MOJ to which the Review made reference. I do not set out the Tribunal’s record of Ms Harper’s evidence, but I have read it carefully. Most is concerned with security risk in Mogadishu which is not relevant for current purposes. The most relevant

part of the decision concerning Ms Harper's evidence for my purposes begins at [195]. It is worthy of note that the Tribunal draws attention to evidence said by Ms Harper to rely on a Danish/Norwegian report and which Ms Harper says supports her view that those who have no contacts on whom they can rely would find it very difficult to return. The Tribunal explores this at [195] and makes the point that Ms Harper's evidence has to be set in context. The Tribunal thereafter makes various criticisms of her evidence both in this context and in relation to security risk. The Tribunal makes the point at [200] that Ms Harper's opinions in certain regards "are simply unsupported by any actual evidence of it occurring, being based instead upon what the witness believes would be the case".

13. I do not need to set out further what is said in MOJ about Ms Harper's evidence because her evidence in relation to livelihood on return was the express focus of the Tribunal in AAW. As such, it is of particular relevance to the Respondent's challenge to the Decision. The Tribunal in AAW said this about Ms Harper's evidence in this regard:

"33. Addressing next the difficulty the appellant would experience in accessing a livelihood on return to Mogadishu, it was Ms Harper's opinion, expressed at para 10.2 of her first report, that it would be extremely difficult for him to secure accommodation, food or employment:

'... because he has the physical appearance of a member of a minority clan, has little education and is not part of the Somali 'middle class...'

Once again this flies in the face of the country guidance in place without any attempt being made to justify departure from it. In MOJ & Ors the Tribunal addressed this point directly:

'It is beyond doubt that there has been huge inward investment, large-scale construction projects and vibrant business activity. Land values are said to be 'rocketing' and entrepreneurial members of the diaspora with access to funding are returning in significant numbers in the confident expectation of launching successful business projects. The question to be addressed is what, if any, benefit does this deliver for so called 'ordinary returnees' who are not themselves wealthy businessmen or highly skilled professionals employed by such people. '

The conclusion reached concerning the view that economic opportunities were available only for 'the elite', at para 349, was this:

'This is a view that is not altogether easy to understand and we are unable to agree with it. The evidence is of substantial inward investment in construction projects and of entrepreneurs returning to Mogadishu to invest in business activity. In particular we heard evidence about hotels and restaurants and a resurgence of the hospitality industry as well as taxi businesses, bus services, drycleaners, electronics stores and so on. The evidence speaks of construction projects and improvements in the city's infrastructure such as the installation of some solar powered street lighting. It



does not, perhaps, need much in the way of direct evidence to conclude that jobs such as working as building labourers, waiters or drivers or assistants in retail outlets are unlikely to be filled by the tiny minority that represents 'the elite'.

34. Ms Harper simply ignores this reasoning and so we do not know on what basis she departs from it."

14. Mr Clarke made the point that the extracts from Ms Harper's report in AAW relating to livelihood (as set out above) bear some similarities to the Expert Report in this appeal.
15. With that introductory context, I turn then to the paragraphs of the Decision which are challenged by the Respondent. I begin by noting at [38] of the Decision what the Judge says about Ms Harper's evidence generally:

"The appellant claims he is at risk from the Al Shabab both in Jubaland and Mogadishu. The appellant has provided a country expert report of Mary Harper, I note she is well acquainted with her duties to this court and her role as an expert, as set out in the caselaw and presidential guidance. I have considered her background and accept she is eminently qualified. I note she has set out clearly her sources and limitations within her report. I also note that she is cited in the latest CPIN, Somalia Al Shabab, November 2020."

There is no account taken of the Respondent's views expressed in the Review and the note of caution there sounded about Ms Harper's opinions.

16. The section of the Decision dealing with internal relocation is at [47] to [54]. As Mr Toal submitted and I accept the findings which are criticised by the Respondent have to be read in the context of the whole. Paragraph [47] of the Decision contains the Judge's (accurate) self-direction in relation to the test which applies. The Judge continued as follows:

"48. In the headnote of MOJ (ix), the Upper Tribunal gave guidance on factors to be considered which will assist in the assessment of whether a person would find themselves living in circumstances that fall below that which is acceptable in humanitarian protection terms. These same factors are also relevant to the reasonableness of the appellant's relocation to Mogadishu. I have already in the above findings set out findings on some of those factors. With respect to the other factors, the appellant left Mogadishu aged 9 years old and thus has been outside of the country for 12 years. The appellant has never lived in Mogadishu and does not have family, friends, support network or contacts with anyone in the city.

49. The appellant arrived in the UK as a minor and was then cared for by the local authority by being put into supported accommodation with Mr Hammond and his family, there is evidence from East Sussex council confirming the same. This evidence also confirms the appellants oral

evidence that this support continues. He further stated he could not support the appellant financially if he were to return to Somalia as he cannot even do this in the UK. As I have stated above I found Mr Hammond credible, thus I accept that the appellant would not be able to rely on him for financial support if returned. I have already accepted the appellant does not have contact with his family and does not have the support of his clan. Accordingly I find the appellant does not have family or friends who can assist him financially in providing remittances to him and for the same reasons he does not have financial resources available to him. I also find he lives in a supported family setting and this would not be available to him on return.

50. The evidence before me which I find credible is that the appellant has been attending college since his arrival in the UK and has not worked. It was put to him in cross examination that he mentioned working during his journey to the UK. The appellant explained he did work in exchange for food. Considering he was a minor at the time, I do not find this was employment as one might expect. Indeed I note in the interview record the appellant was given the option of being referred into the National Referral Mechanism as a potential victim of trafficking due to the circumstances of that employment. Taken in the round, I do not find this is evidence of his ability to acquire employment. I accept the appellant has acquired some limited skills in English and Maths, but from the evidence this is on-going.

51. With regards to the appellant's ability to obtain employment, Ms Harper's report find that while it is the case that some well-connected and usually highly skilled members of the diaspora are returning to the city to work in government and other skilled sectors, there are still serious economic and humanitarian problems (p84/AB). Ms Harper also refers to accommodation the diaspora community through connections [sic], some even staying in hotels. The appellant is not well connected and is not highly skilled and therefore I find he would experience hardship in gaining employment and accommodation.

52. The appellant journey was funded by his uncle but this was a one off journey. The appellant is no longer in touch with his uncle and so this financial support is no longer available to him.

53. Having taken all of those factors into account I conclude that internal flight is not a reasonable option for the appellant as he has been outside of the country for over 12 years, he has never been to Mogadishu and has no family/connections to support him in navigating the city given its complexity. This same lack of connections and skills hinders his ability to access accommodation and employment."

17. Given the way in which the Respondent's case is pleaded, it comes as no surprise that she focusses on [51] of the Decision in relation to the Judge's findings about the Appellant's lack of skills and impact of that factor on the Appellant's ability to secure employment. Although I was not taken to it, the Judge refers in support of her conclusions to [AB/84] which sets out Ms Harper's views on the Appellant's employment prospects as follows:

“13.6 The 2014 Somalia Country Guidance case speaks of an *‘economic boom’* in Mogadishu. Whilst it is the case that well-connected members of the diaspora are returning to the city to work, invest and start businesses, there are still serious economic and humanitarian problems, with parts of the country experiencing four years of drought from 2015 to 2018. The country is currently facing its worst locust invasion in 25 years, severe flooding and the effects of the coronavirus pandemic. 67% of Somalis between the ages of 14 and 29 are reported to be unemployed. A 2016 report found Mogadishu to be the *‘world’s most fragile city’*, partly because of high unemployment rates which it put at 66%. According to a 2017 think tank report on Somalis returned to Somalia from Kenya: *‘The unemployment rate in Somalia is very high. To get a job of any kind, one needs skills, a fuller understanding of the city and society and perhaps connections and affiliations to those hiring that are often based on clan or familiarity.’*”

13.7 There have been reports in the media about Somalis returning from the diaspora to work in Mogadishu; I myself have written and broadcast such reports. However, those individuals are well-connected, have organised jobs for themselves before they arrive, and have financial resources if they open businesses. They also have foreign passports, which enable them to leave quickly when security deteriorates. They live in a sort of ‘bubble’ in Mogadishu. Some live and work in the highly protected Villa Somalia area or inside the compound of Mogadishu International Airport, while others live in expensive hotels, although these are regularly attacked by Al Shabaab. In my opinion, [ES] does not fall into this category of person as his claim is that he has no family or other contacts in the city and, as far as I am aware, is not connected to a politician or wealthy business person who might have jobs on offer. Whilst, as previously mentioned, I believe fellow members of his Darod clan (sub-clan Ogaden) might be able to advise him on how to seek employment, according to the knowledge I have gained during my years of reporting from and on Somalia, I do not believe they would go further than that as, in my view, more substantial help would depend on him being a relative or fellow clan member, who had been known for several years. In my view, it is unlikely he would have such relationships as he has never been to Mogadishu and left Somalia as a child. There are few employment opportunities, and those that exist depend on contacts, and clan or family affiliation. A Danish/Norwegian report states, *‘a number of returnees are going back to their country of asylum because they could not find a job in Mogadishu’*. Some of my Somali friends and acquaintances who returned to Mogadishu from the diaspora to work with the government, NGOs or to set up businesses have left or are considering leaving Somalia because of the security situation, the lack of opportunity and the expense of living in safer parts of the city; others have been killed or wounded in suicide and other attacks. A Mogadishu hotel manager interviewed by my BBC colleague Andrew Harding said, *‘Two years ago property was booming, there was a lot of activity. But since then 80% of the diaspora went back because of the deteriorating security situation’*. The hotel manager is actively considering returning to the UK.

13.8 Some less-educated Somalis I know who have returned to Mogadishu have found work in the booming construction industry,

especially if they have specific skills such as plastering, roofing and so on. [ES] does not have these kinds of skills. If he were able to find employment, it would in all likelihood be the most basic manual labour. In my view, he would also need to have established contacts in order to find manual work, and would be competing with many other unemployed Somalis for this kind of employment.”

18. It is worthy of note in relation to that section that, where Ms Harper offers documentary support for her views, that is sometimes material which pre-dates MOJ (for example the “Danish /Norwegian report” to which she refers dates back to April-May 2013 and appears to have been one of the documents before the Tribunal in MOJ – see [353] of the list annexed to MOJ). Of Ms Harper’s sources post-dating MOJ, many are of some antiquity, dating back to 2014-2017. That is of some relevance to the general comments made by the Judge in this appeal about the value of Ms Harper’s evidence.
19. Returning to the point made by Mr Clarke, what is said by Ms Harper about opportunities for unskilled workers is not consistent with what is said in MOJ. As Mr Clarke submitted, the Judge makes no reference to MOJ in that regard nor to the criticisms of the Tribunal in that case of the evidence of Ms Harper about the possibility of securing a livelihood for those with no skills. Mr Clarke articulated the error as being that the Judge had offered no explanation for departing from what was said in MOJ and had not shown that there are strong grounds or cogent evidence to depart from the country guidance extant at that time.
20. In response, Mr Toal submitted that the Judge had not departed from MOJ still less based on any reliance on Ms Harper’s evidence. She directed herself in relation to what the country guidance said in relation to the issues and applied that country guidance. I accept that the Judge did not evince any intention to depart from MOJ. That raises the question however whether the Judge has been led into a departure from MOJ by Ms Harper’s evidence which had been the subject of criticism by the Tribunal in MOJ and AAW.
21. In response to Mr Clarke’s submission about opportunities for unskilled workers as taken from MOJ, Mr Toal submitted that it could not be said that the economic situation in Mogadishu was such that anyone looking for a job would get one. Even the guidance in MOJ acknowledged that there were problems in Mogadishu due to numbers internally displaced to that city. A returnee would be competing with others. Mr Toal suggested at one point that the Judge was considering at [51] of the Decision the guidance in [x] of the headnote in MOJ (set out at [11] above). I had some difficulty understanding that submission since the point there made is that returnees are generally better placed to take jobs than those living in Mogadishu or internally displaced there. That does not assist the Appellant’s case. In any event, the Judge herself makes no reference to [x] of the headnote; her analysis is confined to [ix] of the headnote.

22. Whether or not the Judge intended to depart from MOJ or did so because of her reliance on Ms Harper's evidence, I accept that there is an error made by failing to note what is said in MOJ about opportunities for those with no skills. The issue thereafter is whether that error is material.
23. That question involves consideration also of a second error said by the Respondent to have been made in relation to clan support, also relying on Ms Harper's evidence. Mr Clarke drew my attention in that regard to [35] to [37] of the Decision as follows:

"35. It has been argued that due to the appellant age at the time he left Somalia that he has no clan affiliation's [sic] and would not be able to access clan support. Mr Hammond, the appellant's foster carer, in his oral evidence articulated that this was a concern for the appellant as given where he now lives in St Leonard on Sea, he has no contact with the Somali community even here in the UK. I found Mr Hammond credible as he did not seek to exaggerate the nature of the relationship he has with the appellant and the extent to which he can assist him. He was clear in his evidence about his inability to assist with finance and that even in the UK he does not give the appellant cash. He stated that he views the appellant as a brother and that he would be very concerned for him if he was required to leave and return to Somalia, so much so that he would feel compulsion to go with him to ensure his safety. He did however recognise that this sentiment carried risks for him as well as the claimed risk to the appellant. What is evident was that they have a close bond as a foster family, who had been living together for over 4 years.

36. I have carefully considered the evidence regarding the clan support and note that the CPIN Somalia, Majority clans and minority groups in south and central Somalia, January 2019 states the following about Mogadishu and the Darood clan:

*'6.1.10 The same report noted 'According to a Somali Country Director of a humanitarian agency, Mogadishu is dominated by the Hawiye clan but there are neighbourhoods in Mogadishu, which is dominated by other major clans, for instance Darood. The same source explained that if a Darood member should leave his/her neighbourhood, he/she would be in a fragile position.'* [5]

37. Having considered all the evidence, I find that on the lower standard the appellant has established that he would not be able to access the support of his clan given his time away from Somalia and his lack of family support. This is not a case of a person who is still connected to the community, the appellant does not have such connections."

24. Mr Clarke also drew my attention in this regard to [13.4] and [13.5] of the Expert Report at [AB/83] which reads as follows:

"13.4 [ES] is a member of the Ogaden sub-clan of the Darod majority clan. Whilst the Darod are traditionally based in Kenya, southern Somalia, northern Somalia and eastern Ethiopia, they are also present in Mogadishu, some occupying positions of political and economic power. However, I do not believe that this of itself would be much help to [ES].

Whilst it may be the case that he could approach members of his clan for advice, I do not believe that his clan would provide what would be necessary for him to establish himself in Mogadishu, a city he has never been to. During my many visits to Mogadishu and elsewhere in Somalia, I have noticed that, whilst clan identity is important, it does not necessarily offer protection, support with livelihoods and so on. It is my opinion that the people who would be able to support [ES] would be close family members, and it is his claim that he has no known family or other contacts in Somalia. As stated in the Headnote of the Somalia Country Guidance case above, there will *'need to be a careful assessment of all the circumstances'* if a person returning to Mogadishu *'after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself'*. It is my view that [ES] would not be able to expect much help and/or protection from members of the Darod clan because, in my opinion, it is now the family, not the clan which offers the most support and protection. This is recognised to a degree by MOJ & Ors; as stated in the Headnote above, the *'significance of clan membership has changed'*.

13.5 I believe [ES]'s claimed lack of known family members and other contacts in Somalia would put him in a very vulnerable position. A Home Office Country Information and Policy Note on majority and minority clans states, people *'attempting to relocate to cities or towns with AMISOM/SNAF presence will be forced to settle in IDP settlements unless they have nuclear or extended family with the necessary resources to support them'*. I believe [ES] would fit into this category of persons as it is his claim that he has no known family or other contacts in Somalia and does not have access to resources. As stated in a joint report by the Danish Immigration Service and Norwegian Landinfo, *'Regarding access to livelihood in Mogadishu, UNHCR-Somalia explained that the presence of a nuclear family is a requirement for livelihood support, as the clan will not help with livelihood'*. During a visit to Mogadishu in March 2020, journalists, UN and NGO workers told me the situation regarding the clan remained the same, and that it is the immediate family that is most important in terms of providing livelihood support."

25. Mr Clarke drew my attention to [175] of MOJ which criticised not dissimilar evidence about clan support:

"175. While we accept that Ms Harper's evidence was given in good faith, she doing her best to assist the Tribunal with what could be drawn from her knowledge of Mogadishu, we do not feel able to place much reliance upon this aspect of her evidence. This is reinforced by what she said, as an afterthought, in response to a question about the help a returnee might expect to receive from his clan members on return:

'None at present. If you arrive in Mogadishu and do not know anyone at all, you might start asking for fellow clan members in the hope that they might do more for you than others. But you could not expect anything from them.

I stress this is hypothetical.'

Illustrating, again, that Ms Harper was speaking of what she thought was likely to happen rather than what she knew to have occurred.”

26. In its findings about the relevance of clan support, the Tribunal in MOJ rejected the expert evidence that it was only a “tiny elite” who were benefitting from the economic boom before concluding that “[i]t may be that, like other residents of Mogadishu, he would be more likely to succeed in accessing a livelihood with the support of a clan or nuclear family.” Mr Clarke emphasised the word “or” in that sentence.
27. The difficulty for the Respondent in relation to this aspect is, as Mr Toal pointed out, that the Judge did not place reliance on the Expert Report nor on MOJ but on the Respondent’s own guidance post-dating MOJ. Although I was not taken to it, I have accessed that guidance and the citation is accurate albeit is concerned more generally with clan protection rather than clan support.
28. In any event, the Judge’s finding at [37] of the Decision regarding the (lack of) availability of clan support has to be read in the context of what is said at [35] of the Decision. Unusually, in this case, the Appellant has no connections to the Somali community even in the UK. He has no family contacts who could assist him to resume his clan connections. He left Somalia as a young child. He has never lived in Mogadishu. It was for those reasons that the Judge found as she did at [37] of the Decision that the Appellant would not be able to secure the support of his clan on return.
29. In relation to clan support, therefore, I accept that the Judge has not fallen into any error. She was entitled to reach the conclusion on the basis of the guidance as it then stood and for the reasons given that clan support would not be available. However, taking into account what is said in MOJ, the lack of clan support and family contacts does not mean that the Appellant would not be able to secure a livelihood in unskilled employment. The Judge’s finding that he could not do so because he is not highly skilled therefore continues to disclose an error.

## **Ground Two**

30. That brings me on to the Judge’s findings in relation to family contact which form part of the challenge made by the Respondent’s second ground. The Respondent asserts that the Judge has failed to note the inconsistencies between the Appellant’s various accounts of losing contact with his sister and/or has failed to explain how the accounts can be reconciled.
31. The Judge dealt with the Appellant’s account of contact with his family at [34] of the Decision as follows:

“His witness statements reveals that on 27 June 2018, he recounted how he made contact with [B] and what she informed him about the whereabouts of his siblings and father. The upshot being that it was

believed his father and brother were living in the Jubaland area, but there was no direct contact and no confirmation this information was accurate (para 51-54/P18/AB). In his statement dated 28 February 2019, the appellant stated he tried to contact his brother by Facebook but was unsuccessful (Para 6/P11/AB). In his statement dated 16 October 2019, he confirms again that he had contact with [B] on a monthly basis, but that had now ceased as he lost her contact details due to losing his mobile phone (para 5/P7/AB). In his statement dated 04 September 2020, the appellant states he was in contact with [B] in the past but she changed her number so he has lost contact. He stated his brother and father may still be in Somalia but that he has not had contact with them since he left (Para 9-10/P4/AB). In his most recent statement dated 28 September 2021, he states she has lost contact with [B] as her number has stopped working. He last spoke to her 2 years ago. He further states she has no contact with his father and brother since 2010 (para 3-4). I note there is some inconsistency with regards to why the appellant has lost contact with [B], however the main core account of having contact with her, losing that contact and the whereabouts of his family has been consistent. I accept on the lower standard that the appellant does not have contact with his father and brother. I also accept that he does not have family in Jubaland, or Mogadishu to whom he could turn to for support, I say this as there was no reason to doubt his evidence that he has not had contact with this family since he left and his last contact was with a distant uncle in Ethiopia in 2015. I say Mogadishu too, as the appellant has been consistent in his account, that he never visited Mogadishu and that he knows of no family in the city.”

32. I can deal very shortly with the Respondent’s pleaded criticisms of the Judge’s findings in this regard. Whether the inconsistencies are two or three versions of the way in which the Appellant lost contact with [B], as the Judge says, he has been consistent in his account that he had contact and then lost it. As Mr Toal submitted, and I accept (as did the Judge), the Appellant has otherwise been consistent in his account about other contact with family. I am slightly concerned by a potential inconsistency between the oral evidence of the Appellant and Mr Hammond who is recorded as saying (at [22(g)] of the Decision) that “[ES] did have contact with [B] but due to difficulties connecting it is not always possible by phone or internet access” (my emphasis). This would suggest that some contact may be continuing. That is not though highlighted by the Respondent’s grounds and I do not therefore take it into account at this stage.
33. Mr Clarke expressly abandoned the point pleaded in ground two regarding the Appellant’s failure to engage the Red Cross to trace his father and brother and use of the internet to make contact. He did however pursue the point about the perceived inconsistency between the evidence of Mr Hammond, the Appellant’s foster carer, that he could not provide the Appellant with financial support on return whilst at the same time asserting that he would accompany the Appellant to Somalia if he were returned. That latter point appears at [35] of the Decision as set out at [23] above. The finding that Mr Hammond could not support the



Appellant financially from the UK if he were returned to Somalia appears at [49] of the Decision as set out at [16] above.

34. Mr Toal drew my attention in that regard to the Judge's record of Mr Hammond's evidence at [22] of the Decision which is as follows so far as relevant:

"... (b)They do not give the appellant any money as it is not their role. They are given an allowance to keep [ES] but do not give him any cash. They do not top up what he is given by social services. Occasionally they treat him to a takeaway, maybe birthdays or Christmas;

(c) It is true that in his statement he states he would be compelled to join [ES] if he was forced to leave, as he feels he would be unsafe. It would put him in an awkward position, as he would want to help and support him wherever he may be but the reality is that it might not be possible due to finance.

(d) The appellant is like his little brother. If he was in danger and was sent somewhere unsafe he would go I has no other brother - no saying go to live - but compelled to go.

(e) He could not support ES financially as he does not have the means;

(f) He would support him by hoping to maintain contact but could not give money as he does not have financial means to do it..."

35. Whilst that evidence does not all point in one direction, I accept Mr Toal's submission that the way in which the Judge reconciled that evidence was open to her. Mr Hammond would want to accompany the Appellant if he were returned to Somalia at least in the short term to ensure he was safe but would probably be prevented due to lack of finance. He does not provide the Appellant financial support in the UK and could not afford to provide such support on return to Somalia. There is therefore no inconsistency or at least the Judge was entitled to find that the evidence could be reconciled in that way.

## **Conclusion**

36. I turn then to draw together my conclusions in relation to the Respondent's grounds taken as a whole. For the reasons given above, I find there is no error of law established by the second ground. The Judge was entitled to find that the Appellant has no contact with his family in Somalia or elsewhere, and that he would not receive financial support from anyone in the UK.
37. The first ground does however establish an error. The Judge's finding about the Appellant's ability to secure a livelihood as an unskilled worker takes no account of what is said in MOJ, even though she was entitled to find that the Appellant would not have family contacts or clan support.

38. That then brings me back to the Judge's findings about internal relocation read as a whole. The only part of that section which has given me concern is [51] of the Decision. As previously indicated, Mr Toal was unable to persuade me that the Judge has considered the availability of unskilled employment based on what is said in MOJ. The Judge there appears to consider, based on Ms Harper's evidence, that the Appellant would have to be "highly skilled" in order to find work. That is at odds with the Tribunal's conclusion at [349] of MOJ as set out in the extract from AAW ([13] above). I have already mentioned [x] of the headnote in MOJ to the effect that returnees may in fact be in a better position than those living in Mogadishu or internally displaced there as they are likely to have received a better education. I accept that the Appellant is not said to be highly educated but the Judge did note that he has some limited skills in English and Maths.
39. I have considered whether the Judge's finding that the Appellant would not have any clan support means that the error in this regard is not material. I have had careful regard to [352] of MOJ which refers to an individual being "more likely to succeed in accessing a livelihood with the support of a clan or nuclear family" but that does not mean that without such support an individual could not secure employment.
40. I accept that the other factors in the Appellant's case may ultimately resolve the issue of internal relocation in his favour. However, the reasonableness of internal relocation turns on whether the Appellant "can live a reasonably normal life [in Mogadishu] judged by the standards that prevail ... generally" (see Januzi v Secretary of State for the Home Department [2006] UKHL 5 as set out at [47] of the Decision). The ability to secure employment is a central part of that assessment for a young, able-bodied man as is the Appellant. Although the Judge has not erred in her assessment in any other regard, she has failed to take into account the country guidance when dealing with one factor which is an important one and has fallen into error in her overall assessment for that reason. It is not possible to say that the outcome is highly likely to be the same without that error.
41. In conclusion therefore I find that the Respondent's first ground discloses an error as identified above. I find that the error is one which may ultimately lead to a different outcome and therefore is material.
42. Mr Clarke did not ask me to set aside the finding that the Appellant would be at risk in Jubaland. The Respondent has not challenged that finding. The only issue in the protection claim is therefore whether internal relocation is a reasonable option. Although I have not found any error revealed by the Respondent's second ground in relation to family contact, the issue of internal relocation has to be assessed at the date of the hearing. I do not know if there have been any factual changes in that regard. I have also noted a potential inconsistency between the Appellant's evidence and that of Mr Hammond. I consider it appropriate

to hear up-to-date evidence on this point. I do not therefore preserve the findings in that regard.

43. There has also been updated country guidance in relation to Somalia (OA (Somalia) Somalia CG [2022] UKUT 00033 (IAC)) against which internal relocation will need to be reassessed. I did not hear any submissions about that case and whether it has any impact on the present appeal but, in light of that change, I do not consider it appropriate to preserve any findings in relation to clan support either. I did not hear submissions from either party in relation to the Articles 3 or 8 claim. The Article 3 claim stands or falls with the internal relocation claim. The Article 8 claim also overlaps as the very significant obstacles include consideration of the Appellant's support network in Somalia which will in turn depend on the factual findings in relation to internal relocation.
44. For the foregoing reasons, I conclude that the Respondent has established an error of law by her first ground. I set aside the Decision but preserve the finding that the Appellant will be at risk in his home area of Jubaland. For the avoidance of doubt, the resumed hearing will need to determine the issue of internal relocation as well as the Articles 3 and 8 ECHR claims which include consideration of some of the same factors. Neither party sought remittal of the appeal. Given the limited issues which remain to be determined, it is appropriate for the appeal to remain in the Tribunal for re-making. I have given directions below in case either party wishes to file further evidence and to provide for skeleton arguments and a consolidated bundle.

## **DECISION**

**I am satisfied that there is an error of law in the decision of First-tier Tribunal Judge Kudhail dated 18 October 2021. I set aside that decision but preserve the finding that the Appellant is at risk in his home area of Jubaland. I make the following directions for a resumed hearing in this Tribunal.**

## **DIRECTIONS**

- 1. Within 28 days from the date when this decision is sent, the parties shall file with the Tribunal and serve on the other party any additional evidence on which they wish to rely at the resumed hearing.**
- 2. Within 6 weeks from the date when this decision is sent, the Appellant shall file with the Tribunal and serve on the Respondent a skeleton argument setting out the legal framework in relation to the issues which remain and cross-referring to the evidence relevant to those issues. The Appellant shall file with the Tribunal and serve on the Respondent at the same time an indexed and paginated consolidated bundle (in hard copy) containing all documents relied upon by either party.**

- 3. Within 8 weeks from the date when this decision is sent, the Respondent shall file with the Tribunal and serve on the Appellant a skeleton argument in reply to the Appellant's skeleton argument.**
- 4. The resumed hearing will be relisted for hearing after 8 weeks from the date when this decision is sent, on a face-to-face basis with a time estimate of  $\frac{1}{2}$  day. A Somali interpreter shall be booked for that hearing.**

Signed: L K Smith  
Upper Tribunal Judge Smith

Dated: 12 April 2022