



**Upper Tribunal  
(Immigration and Asylum Chamber) Appeal Number: EA/06151/2019 (V)**

**THE IMMIGRATION ACTS**

**Heard at a remote hearing via Decision & Reasons Promulgated  
Skype  
On: 21 April 2021 On 29 April 2021**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

**ISHMAEL KELLIE**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**For the appellant:** Ms Georget, Counsel  
**For the respondent:** Ms Everett, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. Ms Everett conceded, and I accept that the First-tier Tribunal (FTT) acted procedurally unfairly in proceeding with the hearing on the papers on 14 September 2020. This is because the sponsor only received the respondent's bundle on 7 September 2020 and was reasonably entitled to take 14 days to provide his written response and evidence, which he did but after the decision had been made.
2. Both representatives agreed that the decision should be remade by the FTT. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the

factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT.

3. The appeal proceeded on the papers before the FTT but those now acting on behalf of the appellant have indicated that they wish for the matter to be listed as an oral hearing. The appellant shall file and serve a consolidated bundle contained all evidence to be relied upon before the FTT within 28 days of the date this decision is sent.

### **Decision**

4. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
5. The appeal shall be remade by FTT by a judge other than FTT Judge Andrew, on a de novo basis.

Signed: *Ms Melanie Plimmer*  
Judge of the Upper Tribunal

Dated: 21 April 2021