



Appeal No.: T/2018/33
NCN: [2018] UKUT 310 (AAC)

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER
TRAFFIC COMMISSIONER APPEALS**

**IN AN APPEAL FROM THE DECISION OF:
SARAH BELL, TRAFFIC COMMISSIONER FOR THE LONDON AND
SOUTH EAST TRAFFIC AREA
DATED 21 MARCH 2018**

Before:

**Elizabeth Ovey, Judge of the Upper Tribunal
George Inch, Specialist Member of the Upper Tribunal
Michael Farmer, Specialist Member of the Upper Tribunal**

Appellants: A BROS HALAL MEAT LTD

Attendance: No legal representation. Mr. Abdulla Al Salim, the appellant's director, attended on behalf of the appellant.

Heard at: The Rolls Building, 7 Rolls Building, Fetter Lane, London EC4A 1NL

Date of hearing: 11th September 2018

Date of decision: 21st September 2018

DECISION OF THE UPPER TRIBUNAL

IT IS HEREBY ORDERED that the appeal be DISMISSED.

SUBJECT MATTER: Non-attendance at public inquiry; refusal to adjourn; refusal of application for restricted licence

CASES REFERRED TO: *Ladd v. Marshall* [1954] 1 W.L.R. 1489; *Bradley Fold Travel Limited and Peter Wright v. Secretary of State for Transport* [2010] EWCA Civ 695, [2011] R.T.R. 13; *VST Building & Maintenance Limited* [2014] UKUT 101 (AAC); *W. Martin Oliver Partnership* [2016] UKUT 70 (AAC); *North Warwickshire Travel Limited and Michael James* [2018] UKUT 11 (AAC)

REASONS FOR DECISION

Introduction

1. This is an appeal from the decision of the Traffic Commissioner (“the TC”) for the London and South East Traffic Area given on 30th May 2018. By her decision the TC refused the application by the appellant A Bros Halal Meat Limited (“the Applicant”) received on 25th August 2017 for a restricted licence for three vehicles at an operating centre at 59 Chobham Road, London E15 1 LU.

2. The ground of the refusal was that the TC remained to be satisfied that the Applicant was not unfit to hold a licence. The supporting reasons were, in summary, that the application had originally been listed for a public inquiry on 11th April 2018 at 2 p.m. On the morning of that day Mr. Abdulla Al Salim (“Mr. Salim”), the Applicant’s director, sent an e-mail explaining that he could not attend. Following discussion between the TC’s clerk and Mr. Salim, the TC adjourned the case to 10 a.m. on 30th May 2018, a date and time when Mr. Salim had said he would be available. The Applicant was sent a letter giving the date and time of the hearing. Mr. Salim did not attend and, when telephoned, stated that he had thought the hearing was at 2 p.m. In those circumstances, the TC, who had another case listed from 11.30 for the rest of the day, proceeded to “draw the line” and to decide the application.

The facts

3. The Applicant’s application is at pp.14 to 23 of the bundle. It gives 59 Chobham Road as the correspondence address as well as the operating centre and supplies two contact telephone numbers and an e-mail address. Mr. Salim is identified as the relevant person. The answer to the question whether anyone named in the application has ever been involved with a company or business that has gone or is going into liquidation, owing money, is “No”.

4. The application was acknowledged by a letter dated 29th August 2017 which included a list of further information required. The further information related to evidence of financial resources; proof of advertisement; a signed copy of the declaration section of the application, which had been made online; a request for information about any links the Applicant or Mr. Salim had to Sumon Halal Meat Limited; further details of the proposed operating centre; and Mr. Salim’s date of birth. Mr. Salim responded by a letter dated 7th September 2017 which sought to deal with all those matters.

5. On 4th October 2017 the Office of the TC wrote to Mr. Salim stating that certain additional documentation remained outstanding. The letter included the following (in bold in the original):

“This letter is intended as a final attempt to resolve these issues by correspondence and you must now respond in full by no later than

18/10/2017. If on that date the application remains incomplete, it will be refused.”

6. The information in question was, first, evidence of bank statements for a 28 day period (the statements previously supplied having covered only a shorter period). Secondly, it was said:

“Whilst checking the bank statements it was noted that the trading name for the company is Sabbir Halal Meat, checks on companies house show that you were a director of company ‘Sabbir Halal Meat Ltd.’, which was dissolved by liquidation June 2012.

Please advise why the liquidation of this company was not declared on your application when asked if you have been involved with a company, which has gone/is going into liquidation. Please also forward the final meeting of creditors report for this company.”

7. Mr. Salim replied by a letter dated 5th October 2017 enclosing the bank statements and meeting of creditors report and stating that he had answered “No” to the question about liquidation “because I had no knowledge of owing any money and also the factor of it being a *VOLUNTARY LIQUIDATION*”. The report in fact shows that there were no realisable assets and therefore no realisations or payments by the liquidator, who had written off his time costs as irrecoverable.

8. The Office of the TC then wrote to the Applicant again on 1st December 2017, referring to concerns about the proposed operating centre and explaining that the TC had directed that a traffic examiner should visit the centre and provide a report on its suitability. An unannounced visit took place on 15th December 2017 and the examiner produced a report recommending that the operating centre might be suitable for use if three conditions were placed on the licence. Those conditions were set out in a letter to the Applicant dated 8th January 2018 and the Applicant was asked whether it agreed to those conditions being attached if they were required by the TC. A reply was sought by 22nd January 2018 and the Applicant was informed that a response could be accepted by e-mail. Mr. Salim agreed to the conditions by an e-mail sent on 19th January 2018.

9. The Applicant was called to a public inquiry by a letter dated 22nd January 2018. The letter explained that the public inquiry team would write to the Applicant with further details at a later date, which would include full details of the issues of concern to the TC. The formal call-up letter was sent on 5th March 2018 for a public inquiry on 11th April 2018, apparently by e-mail and recorded delivery, addressed to the director of the Applicant. The purpose was said to be to discuss the areas of concern and to give the director the opportunity to demonstrate how the Applicant met the statutory requirements. The date, place and time (2 p.m.) were set out in bold. It identified seven issues about which the TC wished to be satisfied, based on the statutory requirements in ss.13B to 13D of the Goods Vehicles (Licensing of Operators) Act 1995. The letter continued:

“The evidence which the traffic commissioner will consider at the public inquiry is set out in the Traffic Commissioner’s Public Inquiry Brief. In particular the Traffic Commissioner will consider the possible links with

Sumon Halal Meat Ltd, OK1025216, a revoked licence who shared the same correspondence address, the same contact phone number and the same vehicles as declared on this application...

What you *must* do now:

- **Confirm your attendance** using the form attached. The traffic commissioner is unlikely to allow a postponement, unless the circumstances are exceptional. If you do not attend, the case will be heard in your absence.

...

On the day of your public inquiry, you *must*:

- Turn up at least one hour ahead of the start time with photographic evidence of your identity – a driving licence, digital tachograph driver card or passport
- Bring with you the documentation you have assembled to help you make your case and pass it to the clerk so that it can be reviewed
- Be prepared to answer any questions that the traffic commissioner may have about any involvement that the directors have in other businesses

...

Who should attend

The director must attend the public inquiry ...”

10. The brief included a case summary setting out what were identified as the current issues in the following terms, so far as material:

“This is an application for a Restricted licence received on 25 August 2017 applying for three vehicles at an operating centre at 59 Chobham Road ... No opposition has been received.

Whilst processing the application possible links with a Revoked licence, Sumon Halal Meat Ltd., OK1025216, were identified – the operating centre was at 61 Chobham Road, London; the same correspondence address; the same mobile phone number; the same business of Halal meat; and the vehicles specified on this new application were previously specified on the licence held by Sumon Halal Meat Ltd. The licence held by Sumon Halal Meat Ltd. was revoked on 11 August 2017 when it came to light that the company had been dissolved on 26 May 2009. When asked for an explanation of any links with Sumon Halal Meat Ltd., the applicant has stated, in a letter dated 7 September 2017, that they had no affiliation with the company.

A further letter was sent to the applicant on 4 October 2017 as it had been noted that the bank statements supplied showed a trading name of Sabbir Halal Meats, and checks revealed this was a company of which Mr. Salim was a director. The company had gone into liquidation and been dissolved in June 2012. Mr. Salim stated, in a letter dated 5 October 2017, that he had not declared the liquidation as it had been voluntary.

Due to concerns that the proposed operating centre appears to be a residential address, a visit was carried out by a traffic examiner on 15 December 2017. A report has been received from the examiner which states that there is sufficient space at the site to allow 7.5 tonne vehicles to enter and exit the site and he feels it would be possible for a 15-18 tonne vehicle to enter and exit, manoeuvrability would be difficult for larger vehicles... In his conclusions the examiner states that the site is suitable for three 7.5 tonne vehicles which must enter the alleyway in forward gear then reverse into the yard and must exit the yard in forward gear.

The following proposed conditions have been accepted by the applicant, if required by the Traffic Commissioner:-

1. Vehicles authorised under this licence shall not exceed 7.5 tonnes gvw.

...

It is noted that although the operator has accepted the condition restricting the weight of the vehicles to be used at the site to 7.5 tonnes, one of the vehicles specified on the application, FN07 CCA, is 15 tonnes.

Due to the matters above, the Traffic Commissioner decided to consider this application at a public inquiry.”

11. The call-up letter also referred to the possibility of submitting written representations or evidence in advance by 4th April 2018. On 21st March 2018 Mr. Salim sent written submissions on behalf of the Applicant to the TC. In those submissions he addressed the seven statutory issues and stated that the 15 tonne vehicle FN07 CCA would shortly be disposed of, as the Applicant believed it had no need for it. The letter then continued:

“I would like also to re-confirm that the company has no affiliation with the company Sumon Halal Meat Ltd., OK1025216, a revoked licence.

The company shares the same correspondence address, the same contact phone number, and the same vehicles as declared on the application because when the company A BROS HALAL MEAT LTD was formed it took on the assets that previously belonged to SABBIR HALAL MEAT LTD, a company that was voluntarily dissolved and passed on to the current secretary Abdul Al Sabbir (Previous Director of the business until 23 May 2016) in the HOPE to retain the customers that SABBIR HALAL

MEAT LTD had. The company had also taken the business name SABBIR HALAL MEAT as its trading as name, also in the hope to retain the customers from SABBIR HALAL MEAT LTD. However, unfortunately as the company A BROS HALAL MEAT LTD was a new business with a new face, it found it extremely difficult to get into the industry as at the same time there was a huge influx of competitors offering a better deal to the market, hence there was no need for the vehicles listed until now as the business wishes to grow as it is able to offer a competitive price of better stock with a relatively new supplier.”

12. On 11th April 2018 at 00.27 Mr. Salim sent an e-mail to the relevant caseworker, Ms. Carol Daynes, explaining that he could not attend the public inquiry because “my family member was involved in a major vehicle accident a little while ago with my three nephews... at this difficult time I will need to be with my family and support them to the best of my ability.” He expressed the hope that the TC had received his written representations and looked forward to hearing the outcome of the inquiry. It is clear that he expected the TC to proceed in his absence.

13. In fact, Ms. Daynes telephoned Mr. Salim at 9.40 that morning and, according to the record at p.79, asked if he was available for 30th May at 10 a.m. He said he had chicken pox and had been diagnosed the day before yesterday. Ms. Daynes pointed out that as the new date was six weeks away, Mr. Salim should be over the chicken pox by then, and he said he would attend. He was warned that if he failed to attend, the TC might refuse the application. Mr. Salim later rang back and asked if his secretary could attend. Ms. Daynes said that she could, but he would still need to attend.

14. On 12th April 2018 Ms. Daynes wrote to Mr. Salim referring to their conversation. The letter stated that the TC had made the following finding:

“In the absence of oral evidence, I am not satisfied on balance that the application can be granted. It is for the Applicant to satisfy me that mandatory grounds are met. I will allow the case to be relisted this time to afford Mr. Salim [sc. the opportunity] to attend. If the Applicant fails to attend to the next occasion, then I cannot exclude the possibility that the application will be refused in absence.”

The date and time of the new public inquiry (30th May 2018 at 10 a.m.) was clearly stated in bold. The letter was expressed to be sent by e-mail and recorded delivery.

15. As stated at the outset of this decision, Mr. Salim did not attend in time for a 10 a.m. hearing. Ms. Daynes again telephoned and, according to the record at p.83, spoke to Mr. Salim, who told her he thought it was a 2 p.m. start. He said he would speak to his secretary and ring back. In a further conversation Mr. Salim said he was told by his brother that the hearing was at 2 p.m. and he had not received the letter dated 12th April 2018. Ms. Daynes said she would speak to the TC and ring him back. P.84 also records a slightly later telephone call, in which Mr. Salim asked the TC to reconsider making a decision in his absence and said it was a genuine error. It seems likely that this last call was Ms. Daynes’ call back to Mr. Salim to tell him that the TC had proceeded to make a decision.

16. The terms of that decision, as set out in a letter dated 30th May 2018, are as follows:

- “1. The application by A Bros Halal Meat Ltd, OK2006568, is refused as I remain to be satisfied that the Applicant is not unfit to hold a Licence.

Reasons

2. The case was originally listed for 2.00 pm on 11 April 2018. At 00.27 on 11 April 2018 Mr Salim sent an email stating he could not attend that morning due to a family member being involved in a ‘major vehicle accident a little while ago’ and he ‘looked forward to hearing the outcome of the public enquiry.’.
3. My clerk spoke to Mr Salim at 09.40 the same day and advised him of my decision to adjourn the case. The telephone note clearly confirms that Mr. Salim of his availability on 30 May 2018 (*sic*) at 10am. Mr. Salim then said he had chicken pox. There is no mention of this in his previous email. In any event it was agreed he would recover in six weeks. He then said he would attend. He then called back and asked if the Company Secretary could attend instead. He was told as the director he must attend but he could bring the Company Secretary with him.
4. The letter of 12 April 2018 is in very clear terms and sent to the long term business correspondence address. It gives the date and start time of 10am in bold. Mr. Salim is not here. He has told my clerk by telephone that he thought the start time is 2pm. This is simply not good enough. The applicant has been notified by telephone and by letter (sent by email and recorded delivery). I cannot hear the case at 2pm. I have a complex case listed at 11.30 am for the rest of the day.
5. It is for the Applicant to prove its application, not for the Office of the Traffic Commissioners to chase after it. The Applicant has been afforded every courtesy and I now draw the line. This application is refused.”

The grounds of appeal

17. The Applicant through Mr. Salim appealed against that decision by a notice of appeal received on 18th June 2018. On the substantive issue of the Applicant’s fitness to hold a licence he referred simply to the written representations dated 21st March 2018. On the issue of non-attendance, Mr. Salim agreed that a further date was arranged but said that due to some miscommunication he was under the impression that the hearing would be at the same time as the initial hearing. He had everything in order such as further evidence and had a train departing at 11.46 which would allow him to arrive at 13.14, giving him adequate time to submit his evidence and prepare himself. Mr. Salim repeated that it was a genuine error.

The legal context

18. Under s.13(2) of the Goods Vehicles (Licensing of Operators) Act 1995, on an application for a restricted licence the TC must consider whether the requirements of ss.13B and 13C are satisfied and, if the TC thinks fit, whether the requirement of s.13D is satisfied. If the TC decides that any of the requirements is not satisfied, the application must be refused. In any other case, the application must be granted, subject to two immaterial exceptions.

19. S.13B imposes a requirement that the applicant is not unfit to hold a licence by reason of, among other things, any activities of which particulars may be required by virtue of paragraph 1(e) of Schedule 2 to the Act. Such activities are any relevant activities carried on by a relevant person. “Relevant activities” is defined in paragraph 3 to include any activities in carrying on any trade or business in the course of which vehicles of any description are operated and acting as a director of a company carrying on any such trade or business. “Relevant person” is defined in paragraph 2 to include the applicant and any director of an applicant which is a company.

20. It is for the applicant for a new licence to show the TC that the various requirements are satisfied. The substantive part of the TC’s decision, that she was not satisfied that the Applicant was not unfit to hold a licence, is to be understood as a decision that the Applicant had not yet satisfied her that it was not unfit by reason of relevant activities. (Although s.13B also refers to convictions, there is no suggestion that either the Applicant or Mr. Salim has any convictions.)

21. S.37 of the Act gives an applicant for a new licence a right to appeal to the Upper Tribunal against the refusal of the application. The task of the Upper Tribunal, on hearing an appeal from the TC, is to review the material before the TC, and the Upper Tribunal will only allow an appeal if the appellant has shown that “the process of reasoning and the application of the relevant law require the tribunal to take a different view”, as explained in *Bradley Fold Travel Limited and Peter Wright v. Secretary of State for Transport* [2010] EWCA Civ 695, [2011] R.T.R. 13, at paragraphs 30-40. The question is whether the TC was plainly wrong, not what decision the Upper Tribunal would have made if it had been in the TC’s place.

22. There is no separate right of appeal against a refusal to grant an adjournment of a public inquiry, but the refusal to grant an adjournment is a matter which the Upper Tribunal can take into account when deciding whether or not the substantive decision is wrong, and can indeed be the sole ground for allowing an appeal, as appears from *North Warwickshire Travel Limited and Michael James* [2018] UKUT 0011 (AAC), in which the inquiry proceeded although the TC had been informed that the applicant had been delayed by traffic and his arrival was to be expected shortly.

23. There is a very wide range of circumstances which potentially falls to be taken into account in deciding whether or not to grant an adjournment and the TC has to conduct a balancing exercise, bearing in mind that the reason why a public inquiry has been directed will be concerns about one or more of the factors of public safety, unfair

competition and undermining of the regulatory system: *VST Building & Maintenance Limited* [2014] UKUT 0101 (AAC).

24. The jurisdiction and powers of the Upper Tribunal on hearing an appeal are set out in paragraph 17 of Schedule 4 to the Transport Act 1985. The Upper Tribunal has full jurisdiction to determine all matters of law and fact for the purpose of any of its functions under any enactment relating to transport and has power to make such order as it thinks fit or to remit a matter for re-hearing by the same or a different TC. It cannot, however, take into consideration any circumstances which did not exist when the determination under appeal was made.

25. Further, the Upper Tribunal must generally act on the basis of the material before the TC. Although fresh evidence is not entirely excluded, it has been the consistent practice of the Upper Tribunal, as restated in *W. Martin Oliver Partnership* [2016] UKUT 0070 (AAC), to apply the principles of *Ladd v. Marshall* [1954] 1 W.L.R. 1489 to the question whether such evidence should be admitted. One of those principles requires that the evidence concerned should not have been available, with reasonable diligence, for use at the public inquiry. An applicant cannot, on appeal to the Upper Tribunal, fill in the holes of the case with evidence which could have been put before the TC.

Decision on this appeal

26. We consider first whether the TC was plainly wrong in the balancing exercise she conducted on the question of a second adjournment. In our view she was not. From her perspective:

- (1) she had accepted Mr. Salim's inability to attend the original hearing on the ground of the recent major accident. When Ms. Daynes contacted Mr. Salim to rearrange the public inquiry a new reason for not attending emerged;
- (2) when it was established that the new reason (i.e., the chickenpox) would not prevent Mr. Salim from attending on the proposed date, Mr. Salim appeared unwilling to attend, asking if he could send the company secretary instead;
- (3) the time of the new hearing was clearly stated in the telephone conversation;
- (4) the time was confirmed in the letter dated 12th April 2018. Although Mr. Salim said he did not receive it, it was sent to the correct correspondence address by recorded delivery and was also sent by e-mail;
- (5) she was unable to adjourn to 2 p.m. that day, the time at which Mr. Salim said he had expected to attend, because she had to hear another case;
- (6) Mr. Salim had been warned that if he did not attend, a decision might be made in his absence. At the time of the initial hearing his e-mail showed

that he accepted that consequence, albeit that he then had a second chance when the TC decided to adjourn that hearing;

- (7) the application had been outstanding for some time and it was for the Applicant to satisfy the TC that the relevant requirements were met. In effect, the Applicant had had ample opportunity to do so and had failed.

27. These reasons are to be read bearing in mind that since the application in question was a new one and there was no interim licence in place, refusal of the application did not require the Applicant to discontinue any existing activity. Further, since the case could not be heard later that day, an adjournment would itself potentially involve several weeks' further delay in determining the application and even if the ultimate outcome was favourable might not lead to a significantly quicker result than if the Applicant were to make a fresh application supported by the necessary evidence that the requirements were satisfied. The substantive decision shows that the TC's difficulty concerned s.13B of the 1995 Act and it would have been open to the Applicant to explain further the history and activities of the three companies Sumon Halal Meat Limited, Sabbir Halal Meat Limited and the Applicant itself and Mr. Salim's involvement.

28. Mr. Salim attended the hearing before us with his brother, Mr. Abdul Al Sabbir ("Mr. Sabbir"), who was himself a director of the Applicant until 23rd May 2016, when he was replaced as director by Mr. Salim and became the company secretary. Mr. Sabbir is a more confident English speaker than Mr. Salim and spoke to some extent on his behalf and on behalf of the Applicant, but we also heard directly from Mr. Salim and formed the impression that he perhaps finds it easier to understand than to speak in English. Even so, he was able to answer questions from us in an entirely appropriate way.

29. At the end of the day, although it may well be that the Applicant and Mr. Salim were unfortunate that it was not possible for the TC to hear the case later in the day, nothing that they told us persuaded us that the decision of the TC was plainly wrong. There seem to have been a number of unfortunate family circumstances coinciding at the time of the initial hearing and it may be that Mr. Salim did not take on board the fact that the new hearing would be at an earlier time, even if that was clearly stated by Ms. Daynes, who would have been alert to the point. We were also told that there was a difficulty with e-mail at that time, although clearly it had been possible for Mr. Salim to send a message on 11th April 2018 and in any event the e-mail problems do not explain the non-receipt of a recorded delivery letter correctly addressed. Even if the letter of 12th April 2018 was not received, however, it was open to the Applicant to ask for written confirmation of the date and time of the next hearing, or simply to check what had been said, but that was not done. We also note in passing, although it is not clear that the TC would have been aware of this point, that the train Mr. Salim and Mr. Sabbir had intended to catch would not have arrived in time for them to attend one hour before the hearing and to hand in the additional documentation which, we were told, they had intended to bring, although the call-up letter clearly required them to do so.

30. We understand that Mr. Salim and Mr. Sabbir may be inexperienced in dealing with the regulatory regime and that a more experienced operator might well have taken steps to confirm the date and time of the new hearing and been alert to the need to attend

and provide documents promptly. That does not, however, mean that the TC's decision was wrong. We agree that attempts had already been made to accommodate the Applicant's problems and the TC was entitled to draw the line as she did on 30th May 2018.

31. We then turn to look at the substantive decision on the footing that the TC properly proceeded to make a decision. As we have already explained, the TC's ground for refusing the application was that the statutory test in s.13B of the 1995 Act was not met. The letter dated 12th April 2018 had made clear that she wanted to hear oral evidence before coming to her conclusion.

32. On that point it appears to us that the TC's decision was plainly right. We have set out in paragraph 11 above the written evidence before the TC about Sumon Halal Meat Limited, Sabbir Halal Meat Limited and the Applicant. It raises more questions than it answers. It does not explain at all why the Applicant has the same correspondence address, contact phone number and vehicles as Sumon Halal Meat, since the fact that the Applicant took over the business of Sabbir Halal Meat cannot be an answer to that question. It does not seem to be correct that the Applicant took over that business when it was formed, since the Applicant was incorporated on 18th October 2010 and the liquidator's report of the final meeting of Sabbir Halal Meat is dated 1st March 2012. It does seem clear that the Applicant hoped to benefit from the goodwill of Sabbir Halal Meat despite the fact that that company had gone into creditors' voluntary liquidation without sufficient funds even to meet the liquidator's time costs.

33. Against that background, there is scope for concern that the Applicant is in substance what is known as a "phoenix" company, taking on the assets of dissolved companies but leaving their debts unpaid. This is explained in the Senior Traffic Commissioner's Statutory Document No. 1, in particular in paragraphs 71 to 76. Mr. Salim and Mr. Sabbir told us a little about the three companies, from which we understand that there are family connections between them and that difficult personal situations may have led to changes in personnel, but it is not for us to explore this in detail, since such material is evidence which was available for use at the public inquiry. Mr. Salim's difficulty is rather that the only written explanation given was clearly insufficient and he did not attend to supplement it with oral evidence, albeit in the circumstances we have outlined. In our view it is clear that the material before the TC was not sufficient to enable her to be satisfied in accordance with s.13B of the 1995 Act.

34. For those reasons we dismiss the appeal. As we have said, it is open to the Applicant to make a new application. If the Applicant wishes to do so, it might be sensible to obtain advice on the additional material required which might increase the prospects of success. We expect that a clear explanation of the history of the three companies and the involvement of Mr. Salim would form a significant part of such material.

(signed on the original)

E. Ovey

**Judge of the Upper Tribunal
21st September 2018**