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Appeal Number AS/18/01/37699
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MR YT

IMMIGRATION AND ASYLUM ACT 1999
THE TRIBUNAL PROCEDURE (FIRST-TIER TRIBUNAL)
(SOCIAL ENTITLEMENT CHAMBER) RULES 2008

Tribunal Judge	Ms Gill Carter
Appellant	MR YT
Respondent	Secretary of State

STATEMENT OF REASONS

1. This Statement of Reasons is made in accordance with Rule 34(1) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 and gives reasons for the decision given on Monday the 29th day of January 2018, in which I dismiss this appeal.

2. The appellant, who is a 39 year old citizen of Iran, appeals against the decision of the Secretary of State who, on 17 January 2018, refused to provide support under Section 4 of the Immigration and Asylum Act 1999, (the 1999 Act) on the grounds that the appellant did not satisfy any of the conditions set out in Regulation 3(2) of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005 (the 2005 Regulations) and was not destitute.

3. The appellant attended the oral hearing and gave his evidence in the Farsi language. He was represented by Ms Gellner of the Asylum Support Appeals Project. The respondent was represented by Mrs Crozier.

Background

4. The immigration chronology in this case is undisputed. The appellant arrived in the UK on 26 December 2015 and made a claim for asylum on arrival. This claim was refused on 22 May 2016 and his subsequent appeal against that refusal was dismissed on 26 October 2016. He was granted permission to appeal the First-tier Tribunal decision, but his further appeal was dismissed by the Upper Tribunal (IAC) on 17 April 2017. An application for permission to

appeal to the Court of Appeal was refused on 11 October 2017 and he became appeal rights exhausted on 6 November 2017.

5. The appellant was provided with support under Section 95 of the 1999 Act during the course of his asylum claim and subsequent appeals. That support was terminated on 14 December 2017 and his application for support under Section 4 of the 1999 Act was lodged the next day. It is the 17 January 2018 refusal of the Section 4 application which has led to the present appeal.

The Legislative Framework and Relevant Guidance from the Courts

6. Regulation 2 states that "destitute" is to be construed in accordance with Section 95(3) of the 1999 Act. Section 95(3) states that a person is destitute if–

   (a) he does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or

   (b) he has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.

7. Subject to satisfying the test of destitution, Section 4(2) of the 1999 Act as amended by Section 49 of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act), allows the Secretary of State to provide, or arrange for the provision of, facilities for the accommodation of a person and his dependants if:

   (a) he was (but is no longer) an asylum seeker, and

   (b) his claim for asylum was rejected

8. The criteria to be used in determining eligibility for and provision of accommodation to a failed asylum-seeker under Section 4 are set out in Regulation 3 of the 2005 Regulations. These came into force on 31 March 2005.

9. Regulation 3 states as follows:

   (1) …..the criteria to be used in determining the matters referred to in paragraphs (a) and (b) of section 4(5) of the 1999 Act in respect of a person falling within section 4(2) or (3) of that Act are-

      (a) that he appears to the Secretary of State to be destitute, and

      (b) that one or more of the conditions set out in paragraph (2) are satisfied in relation to him.

   (2) Those conditions are that-

      (a) [not relevant to this appeal];

      (b) [not relevant to this appeal];

      (c) [not relevant to this appeal];

      (d) [not relevant to this appeal];

(e) the provision of accommodation is necessary for the purpose of avoiding a breach of a person's Convention rights, within the meaning of the Human Rights Act 1998.

10. Further guidance on the application of Regulation 3(2)(e) is provided by the respondent's instructions to caseworkers, which is currently contained in the document, Asylum Support Section 4 Policy and Process and states (inter alia):

> "*Applicants are most likely to establish that they should be supported under regulation 3(2)(e) if they cannot be expected to take steps to leave the UK and so avoid the consequences of destitution that might lead to them suffering inhuman and degrading treatment. …These are examples only and case workers must consider each case on its own facts."*

11. The position taken by this Tribunal is set out in *AW v LB Croydon and AD & Y v LB Hackney*:

> *"If there is no legal or practical obstacle to prevent an asylum seeker returning to his country of origin, denial of support by the Secretary of State would not constitute a breach of that person's convention rights. He has the choice to return to his country of origin. Neither Article 3 nor Article 8 impose a duty on the United Kingdom to provide support for a failed asylum seeker when there is no impediment to his returning to his own country".*

12. In cases of this nature judges at this Tribunal may be assisted by the findings of the Principal Judge in the appeal of *A-A* (AS/15/05/33112), applying (amongst others) the judgment in *J v Secretary of State for the Home Department* [2005] EWCA Civ 629. In this appeal Ms Gellner invited me to have regard to the findings of the Court of Appeal in *Y (Sri Lanka) and Z (Sri Lanka) and the Secretary of State for the Home Department* [2009] EWCA Civ 362. As a matter of good practice she helpfully circulated this judgment prior to the hearing. I deal with the detail of these cases later in these Reasons.

<u>Destitution</u>

13. The respondent's decision to refuse to accept that the appellant is destitute relies upon an assertion that he failed to declare a bank account in his application for support and in his response to further enquiries. The respondent's Experian financial checks show a Virgin Media Communications account with a balance of £31. Mrs Crozier conceded at the hearing that there was no evidence of a bank account.

14. The appellant explained in oral evidence that this was a WIFI account into which he and his two housemates paid £11 per month each. He also produced a letter from the housemates confirming this arrangement and that they had taken over the appellant's share when his support stopped. Having heard this clarification, Mrs Crozier fairly accepted that the question of destitution could not be pursued.

15. I am fully satisfied that the appellant has demonstrated his destitution. It is accepted that he has been overstaying in accommodation provided by the respondent and there is no reason to doubt his evidence that he has relied on charitable donations of food, the goodwill of his housemates and occasional small donations from a friend during this period.

Regulation 3(2) Entitlement

16. Entitlement to support is a three part test. An applicant must show that they are a failed asylum seeker, destitute and satisfy one of the criteria set out in Regulation 3(2)(a) – (e). The appellant's status as a failed asylum seeker is not in dispute and I have found that he satisfies the test of destitution. Therefore the remaining matter for consideration is his entitlement to support under Regulation 3(2). This is an application for support and the burden of proof therefore rests with the appellant. The standard of proof is that of a balance of probability.

17. The grounds of appeal acknowledge that the appellant *"is theoretically, physically capable of enduring a long haul flight"*, but argue that *"whilst it remains open for the Home Office to disregard his mental health and to take steps to remove him forcibly, someone in [the appellant's] state of mind cannot be expected to take steps to leave the UK voluntarily. On this basis it must it must be considered to be a breach of his ECHR rights to render him destitute while he remains in the UK"*.

18. Ms Gellner helpfully confirmed at the outset of the hearing that only Regulation 3(2)(e) was relied upon. In opening she argued that I should be convinced by the overall picture that the provision of support was necessary to avoid a breach of the appellant's Convention rights. The particular factors to take into consideration were the appellant's mental health and in particular the potential for attempted suicide, which directly prevents him from remedying his destitution by taking steps to leave the UK. His case should be distinguished from that of a person who simply does not want to leave the UK due to the strength of his subjective fears about taking steps to leave. The appellant is investigating the possibility of a fresh claim but should, in any event, be provided with support under Regulation 3(2)(e) until and if he is removed from the UK.

19. In opening Mrs Crozier acknowledged that the decision to refuse support focused mainly upon Regulation 3(2)(b), which was not relied upon at the hearing. With regard to Regulation 3(2)(e), the appellant had not lodged any fresh representations, nor made an appointment to submit the same. His immigration case had only recently been concluded, with the most recent application for permission to appeal being refused in October 2017. Dr Wilson, the respondent's psychiatric advisor, produced an advisory report dated 21 December 2017 in which he concluded that the appellant was able to leave the UK by air travel.

The Written Medical Evidence

20. The appellant relies on a letter from Dr Farrington dated 4 September 2017. Dr Farrington is a GP, who has a specialism in asylum seeker mental health and is based in the Asylum Seeker Mental Health Consultation Service in Salford. He also produces a medical declaration signed by Dr Farrington on 11 September 2017 and a letter dated 22 December 2017 from Dr Patwardhan, who is an ST6 psychiatrist working in the Salford Community Mental Health Team. In addition, at the hearing itself, the appellant submitted a discharge summary dated 16 June 2016 from the Salford Royal Hospital, which summarised his admission on 13 June 2016 and discharge some three days later following an overdose.

21. In her letter of 4 September 2017 Dr Farrington confirms that the appellant has a diagnosis of complex post-traumatic stress disorder (PTSD). Psychological symptoms *"include re-experiencing in the form of flashbacks and nightmares,*

hyperarousal, anxiety and low mood". There are additional physical symptoms of *"anxiety, forgetfulness, palpitations, shortness of breath and sweats. This is more evident when he thinks about the prospect of being sent back to Iran"*.

22. It is confirmed that, in June 2016, the appellant took an intentional overdose, which can be regarded as a serious attempt at ending his life and was prevented because he was found by a friend and taken to hospital. Both Dr Farrington and the hospital discharge summary confirm that the appellant took 56 Co-codamol and 32 Paracetamol tablets.

23. Dr Farrington concludes that the appellant seeks support from his local church, engages with treatment from services, is fully compliant with medication and engages with his GP and with the Asylum Seeker Mental Health Service. Her opinion is *"that any withdrawal of home office support as a result of a negative resolution to his asylum case will greatly impact his mental health. It is likely to exacerbate his symptoms which will have a detrimental impact upon his recovery and safety. He has indicated that if he is forcibly sent back to Iran, then he has every intention to take his own life. I genuinely believe this to be true given his previous serious attempt to end his life"*.

24. The above information is repeated by Dr Farrington in her medical declaration, in which she adds that the appellant is treated with Mirtazapine 30mg at night and psychological therapies. She concludes *"I am concerned about his suicide risk. He has made a serious attempt in the recent past and cannot identify protective factors were he to be detained or forcibly removed"*.

25. More up to date information is provided by Dr Patwardhan in the letter of 22 December 2017. The doctor documents that the appellant was referred to his team following concerns about a deterioration in mental health and an increase in suicidal thoughts and plans. Diagnoses of PTSD and depression were made prior to the appointment with Dr Patwardhan and are long-standing.

26. Dr Patwardhan reports that the appellant *"continues to experiences periods of low mood, anhedonia, poor motivation, and feelings of guilt, hopelessness and worthlessness. He has reported an increase in the severity and frequency of suicidal thoughts over the past 2 months, more so since home office decided to withdraw financial and housing support…should his situation not improve, he would have no option but to commit suicide. He currently feels desperate about his overall immigration situation. [He] has one previous serious suicide attempt, approximately a year ago. I feel that this gentleman remains at a risk of future suicide attempts. The main destabilising factor for his mental health and for increase in these risks to self, is the withdrawal of home office support in terms of finances and accommodation. He assured me today that if his finances were reinstated and his housing issue was looked into, he would not act on his suicidal thoughts."* [sic]

27. One medical report is provided by the respondent. This is Dr Wilson's opinion of 21 December 2017, although it must be borne in mind that Dr Wilson was asked to examine the Regulation 3(2)(b) criterion rather than any arguments under Regulation 3(2)(e). Dr Wilson notes that *"at present, the applicant is not acutely suicidal or receiving inpatient hospital treatment. It is stated that there are concerns regarding his suicide risk, and the last reported episode appears to be at least one year ago"*. He continues *"Like many individuals who are subject to Section 4 support, there may be a risk of the applicant acting impulsively as a result of not wishing to return to his home country. However, at present, the applicant does not appear to have specific behaviours or symptoms that meet the threshold for contraindications as laid out by the CAA*

medical guidelines for psychiatric conditions. Specifically the applicant is not currently impulsive, unpredictable, acutely psychotic or behaviourally disturbed. He is compliant with medication, accessing appropriate treatment and is able to attend appointments. On this basis, I think he is fit to fly and able to leave the UK on any given day. There is a possibility that he may act impulsively as a result of the decision to withdraw support or due to his not wishing to return to his home country."

The Oral Evidence

28. The appellant's account was that, although he had experienced feelings of depression in Iran, these were ameliorated by the fact that he was surrounded by family, had a girlfriend and a career as a computer technician, was studying accountancy and had a good standard of living, including material possessions such as a car.

29. At the time of the overdose in June 2016 he had lost hope - his asylum claim was turned down and his relationship with his girlfriend in Iran ended. His mood was extremely low and, over a period of time and in different locations, he purchased the tablets which he ultimately used in the overdose.

30. Since that time he has regularly taken the prescribed Mirtazapine, which helps him to sleep and reduces the aggression he feels towards himself. His mood remains fluctuating (good one day and low the next) and he still has problems sleeping due to nightmares.

31. Compared to how he felt in June 2016, the appellant described himself as at the moment "a normal person" - for example, he was trying to concentrate and explain his answers to questions. He said there was no comparison now to how he felt at the time of the overdose. If required to work with the Home Office toward a return to Iran he knew that his mental state would get worse and his depression would increase.

32. Prior to the overdose the appellant had not been taking any medication for his depression and had no community mental health support. The discharge summary confirms that he was not registered with a GP. He explained that, following discharge from hospital, he was visited by the Home Treatment Team every 48 hours for two months. After that the visits reduced to once per week and gradually to once per fortnight. He is now visited once every 45 days.

33. For the first two months after discharge the appellant's account is that he was also visited at home by doctors from the Asylum Seeker Mental Health Consultation Service. After three months these appointments took place in the clinic at the Consultation Service itself. From approximately October 2016 onwards he has also been attending for psychological therapy on a once monthly basis. He makes a daily record of his mood and activities, which he takes with him to discuss with the psychologist. He finds this helpful.

34. With regard to medication, Mirtazapine was prescribed on discharge from hospital and was initially provided by the Home Treatment Team. In time the prescribing of the medication was transferred to the appellant's GP and he has routinely contacted the GP for medication prior to running out. On the last occasion his GP refused to make an appointment, with the result that the appellant ran out of medication some 20 days ago. He questioned whether this might be due to his current immigration and/or support status.

35. Since running out of tablets the appellant has been self-medicating with Codeine to assist him to sleep. His next appointment with Dr Farrington is scheduled for the day after the Tribunal hearing and he will speak to this doctor about continuing medication. He had been due to see Dr Farrington on 19 January, but the appointment had been postponed due to the absence of a Farsi interpreter.

The Submissions

36. Mrs Crozier argued that the appellant's reliance on Regulation 3(2)(e) rather than 3(2)(b) could be interpreted as an attempt to access support "through the backdoor" and further that, given that the appellant might suffer from lifelong mental health difficulties, support granted under Regulation 3(2)(e) could potentially be indefinite and would be tantamount to amount to a grant of leave to remain.

37. Mrs Crozier also suggested that there was an element of manipulation with regard to the timing of the appellant's presentation with mental health problems. He first accessed services (whether in Iran or the UK) less than a month after his asylum claim was refused and before his appeal was to be heard.

38. Further, the appellant's asylum claim has been fully tested, with the most recent rejection of permission to appeal being October 2017. It was argued that the rejection of the appellant's asylum claim gives rise to questions over the veracity of his apparently subjective fear of returning to Iran. The fact that the appellant had given assurances to Dr Patwardhan that he would not act on his suicidal thoughts if support was granted was, in Mrs Crozier's view, suggestive of emotional blackmail and she reminded me that *Y and Z* warns of the need for judges to remain alert to such attempts - *"None of this reasoning represents a license for emotional blackmail by asylum seekers"*.

39. In any event, Dr Wilson found that the appellant could undertake travel to Iran and, in Mrs Crozier's view, the appellant's demeanour and presentation taken together with his oral evidence, painted a picture of someone who was able to cope with the activities of everyday life and could be expected to take steps to leave the UK and thereby avoid any potential breach of his Convention rights occasioned by destitution.

40. Ms Gellner vehemently rejected the assertion of emotional blackmail and pointed out that Dr Patwardhan had reported the appellant's answers in the context of an exploration of protective factors, rather than by way of an unprompted comment.

41. She noted that there has been an undisputed serious suicide attempt and that both Dr Patwardhan and Dr Farrington consider the appellant to remain at risk of future suicide attempts. Even Dr Wilson acknowledged the possibility that the appellant might act impulsively and the appellant has been permitted to overstay in his Home Office accommodation due to concerns about his vulnerability.

42. She drew to my attention that *Y and Z* expands on the principles set out in *J* and suggested that I should consider, when evaluating if an expectation of co-operation with voluntary or forcible return in this case would represent a breach of the appellant's human rights, *"whether any genuine fear which the appellant may establish, albeit without an objective foundation, is such as to create a risk of suicide"*.

43. Ms Gellner acknowledged that it was not possible to determine from the evidence before the Tribunal to what extent the suicide attempt had been brought into play during the course of the appellant's immigration appeals or what findings were made with regard to his treatment in Iran. In the circumstances she considered that the appropriate course of action would be for support to be granted under Regulation 3(2)(e), with the proviso that it remained open to the respondent to review the appellant's medical evidence and the immigration decisions and to discontinue support if it was considered that the Regulation 3(2)(e) criterion was no longer met.

44. Ms Gellner also highlighted the expected deterioration in the appellant's mental state, should he be refused accommodation and argued that this was likely to be exacerbated by the effect of the 2017 NHS Regulations regarding the provision of free healthcare, which might mean that the appellant would be unable to access the services that he currently receives. It was said that, in such a situation, the appellant's mental state would be so poor and his suicide risk so high that he could not be expected to remedy his destitution by taking steps to leave the UK.

<u>My Decision</u>

45. I reject Mrs Crozier's submission that the appellant has attempted to use the Regulation 3(2) criteria in some manipulative way. The criteria for support are clearly limited by Regulations and the appellant is fully entitled to apply under any limb which he believes he may satisfy. If granted, support is regularly reviewed by the respondent, who may discontinue it if it can be shown that the supported person no longer satisfies the statutory criteria.

46. Questions over the source of the appellant's mental health problems, the timing of his presentation to services and whether or not his symptoms are of such severity and so intrinsically linked with the idea of returning to Iran that to expect him to do so would represent a breach of his Convention rights are not so straightforward to determine.

47. On the one hand the appellant did not seek assistance with his mental health difficulties in Iran or in the UK prior to the refusal of his asylum claim. The suicide attempt occurred in the context of the refusal of his asylum claim and a negative decision on the appellant's support claim has also occasioned threats of suicide. The appellant has recently stated that his suicidal ideation would resolve if he was housed and supported. This could all give rise to an element of cynicism.

48. However, an alternative explanation may be that the refusal of the asylum claim and the loss of his relationship at that time brought the appellant to his lowest ebb. There was an undeniably serious suicide attempt and it is entirely possible that the prospect of losing support and accommodation, which he has enjoyed for some time, would have a destabilising effect on his mental health. The medical evidence demonstrates that the appellant's intensive contact with mental health services since the suicide attempt is part of a continuing aftercare package in the light of continuing concerns about his mental state and risk.

49. The origin of the diagnosis of PTSD is not clear. The appellant said that it was first mentioned by one of the psychiatrists in the Consultation Service some three or so sessions into his treatment. In *A-A* (paragraph 54(k) and (l)) the Principal Judge, when reaching her own findings of fact, cautions against a blanket acceptance of such diagnoses if they have been made without

consideration of findings in the immigration courts with regard to the veracity of the trauma that is said to have given rise to the symptoms of PTSD.

50. *A-A* was a case in which the Principal Judge found that the diagnosis of PTSD was made in good faith, but in ignorance of the fact that the claims on which the finding of trauma was based had been found by the immigration courts to be fabricated. In this the Principal Judge followed the reasoning in *J* that, whilst an Article 3 claim based on the risk of suicide can in principle succeed in the immigration courts, *"a question of importance is whether the fear …upon which the risk of suicide is said to be based is objectively well-founded".*

51. I accept that, in the absence of similar cases determined by the higher courts in relation to support, some assistance may be drawn from relevant immigration case law. Ms Gellner highlights that *Y and Z* added the concept that an appellant may hold a genuine fear, albeit without an objective foundation, such as to create a risk of suicide sufficient to reach the threshold of inhuman treatment prohibited by Article 3 of the European Convention on Human Rights (ECHR).

52. *Y and Z* is a case on enforced return, but I see no reason why the analysis should not be similarly applicable to an expectation that an applicant for support should cooperate with either enforced or voluntary return in order to avoid destitution in the UK. However, there are important caveats to the application of *Y and Z* to the present case. *Y and Z* states particularly that *"in the absence of an objective foundation for the fear some independent basis for it must be established if weight is to be given to it"* and it is highly significant that *Y and Z* was determined on the basis of undisturbed findings of torture and rape in the country of origin.

53. In the absence of the conclusions of the Immigration Tribunal in the appellant's recent appeal, I cannot know to what extent the *Y and Z* analysis is applicable to the support appeal and therefore I make no findings thereon. I reject Ms Gellner's proposition that support should be granted on the basis that it could be discontinued if, on a close perusal of the immigration court's findings, the appellant's case is undermined. Such a disposal would not reflect the fact that this is an application for support in which the burden of proof is on the appellant.

54. Even were I to accept at face value the diagnosis of PTSD and to find any misgivings about the timing of or motive behind the appellant's suicidal presentation to be unfounded, I must be satisfied in Regulation 3(2)(e) terms that the provision of support is necessary to avoid a breach of the appellant's human rights. I have determined that it is not, since an alternative remedy remains open to him, which would result in his being eligible for support and thus avoid any such breach. In reaching this conclusion I have considered the findings in *AW v LB Croydon and AD & Y v LB Hackney*, as set out in paragraph 11 above.

55. I acknowledge that some 18 months ago there was a serious suicide attempt and that psychiatrists, who have recently seen the appellant, determine that such a risk remains present. Dr Wilson too accepts the possibility of impulsive behaviour. However, I reject the argument that the existence of such a risk necessarily creates an entitlement under the Human Rights Act to be supported in the UK when the appellant has been found, after full and final testing in the immigration courts, to have no right to remain here.

56. It is important to note that Dr Patwardhan refers to a loss of Home Office support as the main destabilising factor. This can be avoided by the appellant

cooperating with the Secretary of State in voluntary or enforced departure, which would necessarily lead to the provision of support under Regulation 3(2)(a) since he would be taking all reasonable steps to leave the United Kingdom.

57. I do not accept that the appellant is incapable of such co-operation. He showed himself at the hearing to be capable and organised. His evidence was coherent and his concentration good throughout a long hearing. He had notes of his future medical appointments and those that had been postponed in an electronic calendar. He is in a very different position to that when he made his 2016 suicide attempt, a shift in mental state which he himself acknowledged in oral evidence.

58. At the time of the suicide attempt he was not registered with a GP. He is now subject to frequent monitoring by a specialist doctor and a psychologist and he has been told he can access a psychiatrist in the Community Mental Health Team whenever he wishes. The Home Treatment Team remains involved and he has been provided with an Emergency Duty Team contact number, should he feel at risk. If necessary voluntary or compulsory admission to psychiatric hospital could be utilised. I am aware that, when the point of departure from the UK is reached, this ongoing support can be augmented by suitable escorts arranged by the Secretary of State to ensure supervision, medication and if necessary restraint to avoid self-harm.

59. Both *J* and *Y and Z* consider the relevance of effective processes to reduce the risk of suicide. *Y and Z* were persons whose mental state prevented them from accessing mental health support services (in their country of origin). In *J* it was said that *"a further question of considerable relevance is whether the removing and/or receiving state has effective mechanisms to reduce the risk of suicide. If there are effective mechanisms that too will weigh heavily against an applicant's claim that removal will violate his or her Article 3 rights"*.

60. The appellant is not a person who is incapable of accessing support that is offered. He has conscientiously attended the appointments that he has been given and taken the medication that he has been prescribed. The support offered to him is extensive and he can be expected to utilise these services, with which he is already familiar, to support him to cooperate with the Secretary of State following the ending of his asylum process.

61. I do not accept Ms Gellner's submissions with regard to the possible loss of these services occasioned by new legislation, since they remain available free of charge to persons who are provided with support under Section 4(2) of the 1999 Act and therefore would be available to this appellant should he cooperate with voluntary or enforced return and thus satisfy the Section 4 criteria..

62. For the sake of completeness I add that the prospect of a fresh claim does not currently assist the appellant to demonstrate an entitlement to support under Regulation 3(2)(e). His position is that he awaits further evidence from Iran before such a claim could be made and thus any fresh claim is not sufficiently tangible to represent a legal or practical obstacle to departure (*AW v LB Croydon and AD & Y v LB* considered).

63. It remains open to the appellant to reapply for support should his fresh claim come to fruition or should he wish to adduce findings in his immigration case and/or further medical evidence regarding his mental health. However, on the basis of all of the evidence available to me, although I am not without sympathy

for the appellant's distress, I find that he currently does not satisfy the Regulation 3(2)(e) criterion for support.

64. The appeal is accordingly dismissed.

Ms Gill Carter
Deputy Principal Judge, Asylum Support
SIGNED ON THE ORIGINAL **[Appellant's Copy]**

Dated 1 February 2018