



Neutral citation number: [2026] UKUT 373 (AAC)

Appeal No. UA-2023-000486-V

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Between:

ZP

Appellant

v

Disclosure & Barring Service

Respondent

Before: Upper Tribunal Judge Mitchell
Upper Tribunal Member Hutchinson
Upper Tribunal Member Turner

Hearing: 28 August 2025, conducted by remote video link using Cloud Video Platform

Representation:

Appellant: in person

Respondent: Mr Ashley Serr, of counsel, instructed by DBS Legal Department

On appeal from:

Decision maker: Disclosure & Barring Service

Ref: 00893156914

Decision Date: 17 January 2023

ANONYMITY ORDER

Readers of this decision should note that an anonymity order has been made under rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 in respect of the Appellant and certain other individuals. The order prevents any person from disclosing

or publishing the name, or any matter likely to lead members of the public to identify, any of these individuals. **Contravention of the order is a contempt of court punishable by up to 2 years' imprisonment and an unlimited fine.**

SUMMARY OF DECISION

65 Safeguarding Vulnerable Groups

65.10 Safeguarding Vulnerable Groups – fairness of DBS decision-making procedure

In certain barring cases, an individual will automatically be included in a barred list, maintained under the Safeguarding Vulnerable Groups Act 2006, if the individual fails duly to provide written representations against a proposed barring decision. In such cases, fairness requires the notice inviting representations (sometimes referred to as a 'minded to bar' letter) to enable the individual to make meaningful representations as to the appropriateness of barring. This will often require DBS to give some indication as to why they are minded to find that barring is appropriate. In the present case, a notice that simply informed the Appellant that barring was proposed 'because of your conviction information' was insufficient.

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the Upper Tribunal panel follow.

DECISION OF THE UPPER TRIBUNAL

This appeal is ALLOWED. In their decision of 17 January 2023, in so far as it related to the Appellant's inclusion on the list of persons barred from working with vulnerable adults, DBS made mistakes of law. The Upper Tribunal does not confirm DBS' decision to include the Appellant in the adults' barred list. Under section 4(6)(b) of the Safeguarding Vulnerable Groups Act 2006, the Upper Tribunal remits to DBS for a new decision the matter of whether the Appellant is to be included in the list of persons barred from working with vulnerable adults.

REASONS FOR DECISION

Introduction

1. In these reasons:

- "2006 Act" means the Safeguarding Vulnerable Groups Act 2006;
- "2009 Regulations" means the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009;

- “DBS” means Disclosure and Barring Service.

2. The initials ‘ZP’, used to refer to the Appellant in the name of this case, have been selected at random.

Background

3. In 2016, the Appellant’s infant son sadly died. The Appellant was charged with the offence of causing or allowing the death of a child, contrary to section 5 of the Domestic Violence, Crime and Victims Act 2004. The child’s father was charged with murder.

4. A psychological report was prepared in 2017 for the purposes of the criminal proceedings against the Appellant. The report:

(a) recounted the Appellant’s intimate relationship history, that she had suffered domestic violence at the hands of three of her five partners but never again intended to have an intimate partner;

(b) “she views herself as ineffectual and powerless to change the direction of her life”; “reports difficulties concentrating and making decisions” (paragraph 3.2 of the report);

(c) “she may not be able to meet even minimal role expectations without feeling overwhelmed. Relatively mild stressors may be sufficient to precipitate a major crisis. She is likely to be plagued by worry to the degree that her ability to concentrate and attend are significantly compromised” (3.4);

(d) “A number of aspects of [the Appellant’s] self-description suggest marked peculiarities in thinking and experience at a level of severity unusual even in clinical samples. These features are often associated with an active psychotic episode, with poor judgment and impairment in reality testing as hallmark characteristics...thought processes are likely be marked by confusion, distractibility and difficulty concentrating, and she may experience her thoughts as blocked, withdrawn or somehow influenced by others” (3.5);

(e) “[the Appellant] describes a number of problematic personality traits...She is likely to be quite emotionally labile, manifesting fairly rapid and extreme mood swings and, in particular, probably experiences episodes of poorly controlled anger...quite impulsive and prone to behaviours likely to be self-harmful or self-destructive...” (3.6);

(f) "...describes a level of suspiciousness and mistrust in her relations with others that is unusual even in clinical samples...likely to be a hypervigilant individual who often questions and mistrusts the motives of those around her. She is extremely sensitive in her interactions with others and likely harbors strong feelings of resentment as a result of perceived slights and insults...quick to feel that she is being treated inequitably and often holds grudges against others, even if the perceived affront is unintentional...Working relationships with others are likely to be very strained, despite any efforts by other to demonstrate support and assistance" (3.7);

(g) "...likely to display a variety of maladaptive behaviour patterns aimed at controlling anxiety..." (3.9);

(h) "...appears to have substantial interest in making changes in her life and she appears motivated for treatment. Her responses indicate an acknowledgement of important problems, a perception of a need for help in dealing with these problems, and a positive attitude towards her responsibility in pursuing treatment. Despite this favourable sign, the combination of problems that she is reporting suggests that treatment is likely to be quite challenging and that the treatment process is likely to be arduous with many reversals" (3.18).

5. In 2017, the Appellant was convicted of an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004, and given a suspended sentence of imprisonment. Her former partner was convicted of murder and therefore sentenced to life imprisonment.

6. In 2018, DBS included the Appellant in the children's barred list. The present barring decisions included one retaining the Appellant in the children's barred list, but this is not challenged in these proceedings.

7. In 2019, a NHS Psychological Therapies Department wrote to the Appellant:

"...Managing relationships, including recognising patterns of abusiveness also became a key issue that you wanted to think about in therapy...You learnt to manage this by avoiding relationships with others...

You have also talked about a newfound ability to say no in your relationships and to put boundaries in place with friends and family that mean you feel less vulnerable and used in your relationships...

The progress in therapy has been bolstered by your commitment to the emotion management skills that you have been taught...

Because you are such a capable copier on the outside...this can mean that other people miss the fact that you are finding things really difficult and struggling to cope. By stepping back from the fear of being a failure and being able to say when things are difficult before they become overwhelming, I wonder if this would enable you to avoid becoming overwhelmed and feeling at crisis point in the future?..."

8. In 2021, a NHS psychiatrist wrote to the Appellant's GP explaining that she had been discharged from the care of a Community Mental Health Team:

"...[Appellant] has worked very hard in completing all her courses including psychotherapy which she completed almost a year ago. [Appellant] identified the significant progress she has made. She has been utilising the skills learnt and has not resorted to self-harming in managing her distress.

...She has good insight and capacity to make informed decisions about her well-being and safety."

9. In 2022, in response to a query made by the Appellant, DBS wrote to her. Headed "Intention to bar on Adults' List", the letter said, "there are some offences, where if anyone receives a caution or conviction, they must be included on one or both barred lists". The letter then recorded the Appellant's conviction for an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 before giving the following explanation for her proposed bar from working with vulnerable adults:

"Because of [your application for an enhanced disclosure check to work with adults] and your offence information, we intend to include you in the Adults' Barred List...We want you to tell us why we should not include you in the Adults' Barred List."

10. In 2022, the Deputy CEO of a counselling organisation wrote a letter in support of the Appellant's case not to be barred from working with vulnerable adults. The letter described a range of courses undertaken by the Appellant and stated that, over five years, never gave the organisation any cause for concern. The writer also expressed the view that the Appellant had much to offer other women with a background of abusive relationships and requested that DBS conduct a 'direct assessment' which, in the writer's view, would not reveal any cause for concern. This letter also described the Appellant's engagement with the 'Freedom' programme:

“When [the Appellant] started at [the organisation], she appeared to not fully comprehend or recognise the situation which herself and her children had lived in. However, during her time accessing the Freedom programme she began to understand the types of perpetrators and the tactics which they use to gain power and control over a victim, she started to realise the severity of the situation which she had failed to protect herself and her children from. [The Appellant] has openly admitted that she did not learn a substantial amount during her first time sitting the Freedom course and has accepted that she only did this through forced compliance. However, she has since re-sat the Freedom programme voluntarily multiple times and has learnt a considerable amount in terms of the tactics, behaviours and affects that are associated with a perpetrator of abuse.

Alongside the Female Freedom course, she chose to complete our Freedom Forever course. All these sessions were attended, and she engaged well with the course...”.

11. In 2022, the Appellant provided written representations against her proposed barring, supported by various items of written evidence including the 2017 psychological report, sentencing remarks of the judge who imposed a suspended sentence of imprisonment, counselling records and evidence of qualifications obtained. The representations described how the Appellant had changed since 2016, had been discharged from all mental health services, and now understood that she used to have a dependency on other people / being in a relationship. The Appellant further stated that she had not been in a relationship since the death of her son and had no intention of doing so. She also listed various courses attended, including ‘respectful relationships’ and ‘Freedom Programme’, and qualifications attained, including in Peer Mentoring, Safeguarding Awareness, Counselling Skills, and stated that she was partway through a BA (Hons) degree in Psychology with Counselling. The Appellant also wrote that, provided she was not barred from working with vulnerable adults, her aim was to provide support and restorative therapy for victims of domestic abuse and that she had been offered a voluntary counselling position by the counselling organisation whose Deputy CEO had written a letter in support.

12. In 2022, a local authority social worker, in response to various questions asked by DBS, wrote:

“A psychological assessment...highlights some improvements in her functioning and understanding, although there remains some limitations and areas of personal vulnerability. Still, the assessor concluded that she has ‘clearly benefitted from counselling and psychological therapy’ and reports that

she ‘now has a much broader repertoire of adaptive tools and coping strategies’ that she employs on a regular basis to help her to remain emotionally stable.

...We do not consider [the Appellant] to pose a direct physical risk to her children, but it remains the view of the LA that she would not be able to meet the complex emotional and psychological needs of her children which are the result of the significant trauma and harm that they experienced whilst in her care...The LA has not received any recent referrals from any other agencies in respect of [the Appellant] and any current risks that she may pose to others.

...Family time between [the Appellant] and her 4 children remains limited and supervised for the children’s benefit due to the previous trauma they experienced.”

13. Next in 2022, DBS wrote to the Appellant inviting her to comment on the social worker’s statements. The Appellant’s reply stated that she did not dispute anything written by the social worker but asked DBS to note that the assessment referred to was carried out 15 months’ previously and that she had made considerable progress since then.

14. The Appellant has provided further written evidence in the course of these proceedings. We have read this evidence but do not describe its contents because it was not before DBS and, in our view, not material to the grounds of appeal.

DBS’ decision

15. On 17 January 2023, DBS decided to include the Appellant in the adults’ barred list (and retain her in the children’s barred list). We consider it necessary to set out most of the decision letter in full:

“...Findings

We...are satisfied that:

- you were convicted for the offence of Cause/Allow Death of Child/Vulnerable Person [in 2017].

The DBS are satisfied that the context of the offence relates to [a date in 2016] whereby you failed to safeguard your [infant] child by leaving him alone with your aggressive partner for 40 minutes and that during that period he assaulted the child causing substantial injuries and resulting in the child's death.

...We are satisfied a barring decision...is appropriate for the Adults' List. This is because it has been established that you were convicted for the offence

Cause/Allow Death of Child/Vulnerable Person which involved the death of your 8 month old son as a result of significant injuries inflicted on him by your partner. It has been established that you neglected the welfare of your own five children by placing them at physical and emotional harm, due to your inability to safeguard them from your violent partner/relationship. The offence contributed to grave concerns in respect of your welfare and your inability to safeguard your children, which ultimately led to the remaining four children, one of which had previously been physically abused by your partner with your knowledge, being placed into full care accommodation.

DBS had concerns that you chose to remain in extremely violent relationships, exposing your children to harm; despite knowing of the violence and substance use by your partner(s). The behaviours took place in respect of the absence of your ability to safeguard your own children. Although it is acknowledged that this has not occurred within what is defined as 'regulated activity' and strongly represents your parental capacity and emotional wellbeing, due to the nature of the concerns in relation to your welfare and lifestyle choices and the serious incident, as a result, it was believed that there is the potential for you to transfer your conduct towards either vulnerable group in a regulated activity setting.

It is acknowledged that within your representations, you have stated that you have attended counselling and have been discharged from working with a Mental Health Community Nurse due to the considerable progress you have made. It is also recognised that you have made significant efforts to address your self-worth, however the local authority deem there remains limitations and vulnerability. You have submitted that you now understand, can process and have accepted the issues and are no longer dependant on others and haven't been in a further relationship. You now also have a Diploma in Understanding Domestic Abuse, Level 2 in Mental Health Awareness. Whilst this alongside positive reports demonstrates progress has been made, this progress does not appear to have been tested within a further relationship and with your children back in your care, therefore this offers limited reassurance it has been successfully and wholly addressed and you are able to apply that learning to safeguard yourself and others.

Within your representations you have shown insight into your actions; advising that you had failed to understand, recognise and acknowledge the significant dangers and accept that you were not able to care for your children at that time. Whilst this goes some way to minimise the concerns that DBS had in respect of your ability to empathise with your children, it appears that the local authority

deem you remain a risk of not being able to meet the children's emotional and psychological needs and therefore concerns remain.

You have evidently made efforts to stabilise your mental health and completed courses and engaged with health services. Whilst your children remain out of your care the DBS' concerns in respect of your unstable lifestyle appear to have somewhat settled. It is acknowledged that you have completed work to improve your personal issues and have furthered this by becoming a Peer Mentor for others who find themselves in a similar situation to that which you have previously been in. It however remains of concern that Social Services removed the children from your full care; having assessed that you were complicit in your child's death and deemed that you cannot safeguard your own children. Freedom reported that you weren't able to meet even minimal role expectations and that any relatively mild stressors may be sufficient to precipitate a major crisis. Whilst you have made efforts to improve your inability to cope and move forward, it is of significant concern to DBS that your children currently remain in foster care and the local authority have advised that they have no plans to return them to your care; with you only having supervised contact with them due to concerns of your inability to meet their complex emotional and psychological needs due to the trauma they suffered in your care and your remaining limitations and vulnerability.

DBS are therefore unable to take whole assurance at this time that there are now appropriate safeguards to minimise the concerns raised regarding your welfare and ability. It is also considered that Social Services report that your risk in respect of your own capacity is not reduced. It is therefore of concern that your ability to cope and your wellbeing have not been fully addressed. Whilst it is evident that you are making positive steps and have very recently had your contact with your children increased, this remains supervised and therefore offers limited weight to our consideration of reducing future risk.

It is also acknowledged that you have demonstrated some acceptance of your behaviour, involving your inability to leave the violent relationship, feeling guilt and that you had failed your son. However it has been established that you have poor problem solving and coping skills, which evidently remains to a significant degree, owing to your current position in relation to your own children and the assessment of the local authority. Therefore, the likelihood of you repeating this behaviour in regulated activity when responsible for children's welfare is significant, certainly whilst it is deemed that you continue to require intervention. Based on these reasons, retaining you on the Children's Barred List, whilst

impacting on your prospective career options, is deemed to be an appropriate safeguarding measure.

Whilst your behaviour has occurred towards children and was not in 'regulated activity' it is considered entirely possible that vulnerable adults in your care would have similar vulnerabilities to that of children and require you to be able to recognise risks and safeguard them from harm. It is considered of concern that should you be in a care environment with a colleague who was exercising influence over you to not report harm against a vulnerable adult, whether you would report these concerns. It is also of concern that you could in similar instances and under similar influence, conceal the abuse of vulnerable adults by providing an incorrect account of incidents. The DBS have no evidence of you acting appropriately in this sort of situation so cannot be assured that you would appropriately recognise and report abuse of vulnerable adults in your care. As the local authority continue to have concerns in respect of your ability to safeguard your own children without supervision despite the progress you have made, it is considered this ongoing risk is transferable to regulated activity with vulnerable adults whom you would be responsible for their care and welfare. Therefore it is also considered to be an appropriate safeguarding measure to include you in the Adults' List.

It is acknowledged that your continued inclusion in the Children's List and your inclusion in the Adults' List will significantly impact on your employment prospects and that it would have a significant impact on your chosen fields of volunteering/employment...You also advised within your representations that you have completed Level 2 counselling skills course and are 3 years into 6 years BA (Hons) Psychology with Counselling, having not completed Level 3 Counselling or the last 3 years of your degree due to your potential barred status on the Adults' List. It is therefore considered that the bar on the Adults' List will have a significant impact on your ability to complete this course and seek employment with vulnerable adults.

It is acknowledged that the decision...to impose a bar on the Adults' List will interfere with your rights under Article 8 European Convention on Human Rights (ECHR) in relation to your ability to seek employment within regulated activity with...vulnerable adults. Additionally it is possible that your removal from the...adults' workforces may cause an impact upon your employment and volunteering opportunities in the future and that this may have an adverse effect upon your current and potential future earnings and the financial stability of both you and your family. Whilst a safeguarding measure exists in the form of a

conviction and although your enhanced disclosure record will provide some protection against future harm given that it documents your offending and will allow employers to make a more informed recruitment decision, the disclosure certificate does not give full details of all the behaviours that you have demonstrated within your offence, and it will not prevent you from entering these workforces.

A safeguarding decision must take into account not only the rights of the individual but also those vulnerable groups which may be at risk of harm. As such...including you on the Adults' Barred List, whilst potentially impacting on your prospective career options, is deemed to be a proportionate safeguarding measure given the significant nature of your behaviours which resulted in the death of your 8 month old baby and the subsequent significant concerns with your psychological health and the concerns in respect of the ability of you to care for your own children, whom continue to remain out of your care. DBS are unable to significantly minimise concerns in respect of your future risk of harm at this time. It is therefore deemed to be an appropriate and proportionate safeguarding measure to retain you in the Children's Barred List and include you in the Adults' Barred List."

Grounds of appeal

16. The Appellant does not challenge her inclusion on the children's barred list, only the decision to include her on the vulnerable adults' barred list. The Appellant was granted permission to appeal against DBS' vulnerable adults' barring decision on the following grounds, which the Upper Tribunal considered to have a realistic prospect of success.

Ground 1

17. Arguably, DBS' minded to bar letter of 31 May 2022 inaccurately described the applicable law because the offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 is not one which, upon conviction, results in a person's automatic inclusion in the adults' barred list without the right to make representations. The letter failed to mention that, if the Appellant duly made representations against barring, her inclusion on the adults' barred list was dependent on DBS determining that it was appropriate to bar the Appellant from working with vulnerable adults. Arguably, DBS' representations procedure was operated unfairly. The letter inviting the Appellant to make representations contained no rationale for the DBS' provisional opinion that, in the light of the Appellant's conviction, it would be appropriate to include her on the

adults' barred list. Arguably the representations process was unfair because the Appellant was not informed of the reasons why the DBS were minded to include her on the adults' barred list, beyond the very general statement that it was "because of...your offence information". DBS ultimately found that the Appellant could "conceal the abuse of vulnerable adults" and they "have no evidence of you acting appropriately in this sort of situation so cannot be assured that you would appropriately recognise and report abuse of vulnerable adults in your care". The Appellant's appeal asserts that, while employed by a counselling organisation, she made five reports of safeguarding concerns. Had the Appellant been provided with a fuller exposition of the DBS' provisional analysis of the appropriateness of barring, she might have been able to supply evidence in support of her assertions of good safeguarding practice.

Ground 2

18. DBS' Barring Decision Making Process document included a finding that "the progress does not appear to have been tested with a further relationship and therefore Definite Concerns remain". The evidence disclosed what, on any reasonable analysis, may properly be described as a deeply traumatic relationship history. In those circumstances, DBS' finding was arguably perverse. In the context of this case, a 'normal' relationship would presumably not test the Appellant's progress so what sort of relationship did the DBS envisage as a means of testing the Appellant's progress?

Ground 3

19. Relying on the social worker's evidence, DBS found that the Appellant was unable to meet her children's "complex emotional and psychological needs due to the trauma they suffered in your care and your remaining limitations and vulnerability". Arguably, the DBS' reasons for its decision were inadequate in that it failed to explain why the Appellant's inability to meet the complex emotional and psychological needs of her children, being needs which, it seems, were connected to the family history, was a factor tending to show that it was appropriate to bar her from working with vulnerable adults.

Ground 4

20. DBS found that "Freedom reported that you weren't able to meet even minimal role expectations and that any relatively mild stressors may be sufficient to precipitate a major crisis". Arguably, the DBS failed to take into account relevant evidence because the letter written by the Deputy CEO of a counselling organisation, in 2022, said, "she has since re-sat the Freedom programme voluntarily multiple times and has learnt a

considerable amount in terms of the tactics, behaviours and affects that are associated with a perpetrator of abuse”.

Ground 5

21. DBS found, “it has been established that you have poor problem solving and coping skills, which evidently remains to a significant degree, owing to your current position in relation to your own children and the assessment of the local authority”. Arguably, DBS took into account an irrelevant consideration as a result of a flawed understanding of the social worker’s report which arguably linked the Appellant’s separation from her children to an inability to meet her children’s particular complex emotional needs rather than ‘poor problem solving and coping skills’.

Legal framework

Barring criteria and representations against barring

22. Part 2 of Schedule 3 to the 2006 Act provides criteria for determining whether a person is to be barred from working with vulnerable adults.

23. Paragraph 7 of Schedule 3 to the 2006 Act (headed “automatic inclusion”) provides that, if certain criteria prescribed in regulations are satisfied in relation to a person, the person must be included in the adults barred list. In such cases, the person has no right to make representations against barring. The regulations are the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (“2009 Regulations”).

24. Regulation 5 of the 2009 Regulations provides that, for the purposes of paragraph 7 of Schedule 3 to the 2006 Act, the prescribed criterion (for automatic inclusion in the vulnerable adults barred list without right to make representations) is that a person has been convicted of, or cautioned in relation to, an offence specified in paragraph 3 of the Schedule to the 2009 Regulations. The offences specified in paragraph 3 do not include the offence under section 5 of the Domestic Violence, Crime and Victims Act 2004.

25. Paragraph 8 of Schedule 3 to the 2006 Act applies where certain criteria prescribed in regulations are satisfied in relation to a person, and it appears to DBS that the person is, has been, or might in future be engaged in regulated activity relating to vulnerable adults. Here, DBS must give the person the opportunity to make representations

(paragraph 8(4)). If the person fails to make representations within the prescribed time limit, DBS must include the person in the vulnerable adults barred list (if they have reason to believe that the regulated activity condition is met). If representations against barring are duly made, an additional requirement must be satisfied in order to give rise to DBS' duty to include the person in the adults barred list. That requirement is that DBS is satisfied that "it is appropriate to include the person in the adults' barred list" (paragraph(8)(8)(c)).

26. Regulation 6 of the 2009 Regulations provides that, for the purposes of paragraph 8 of Schedule 3 to the 2006 Act, the prescribed criteria include that a person has been convicted of, or cautioned in relation to, an offence specified in paragraph 4 of the Schedule to the 2009 Regulations. The specified offences in that Schedule include the offence under section 5 of the Domestic Violence, Crime and Victims Act 2004.

27. The effect of the above is that, had the Appellant failed duly to make representations against barring, her inclusion in the vulnerable adults' barred list would have been, for all intents and purposes, automatic. However, the Appellant did duly make representations, which meant DBS' duty to include her in the adults' barred list only arose if DBS were satisfied that it was 'appropriate' to include her in that list.

28. Paragraph 16(1) of Schedule 3 to the 2006 Act provides as follows:

"A person who is, by virtue of any provision of this Schedule, given an opportunity to make representations must have the opportunity to make representations in relation to all of the information on which [DBS] intends to rely in taking a decision under this Schedule."

29. Regulation 2 of the Safeguarding Vulnerable Groups Act 2006 (Barring Procedure) Regulations 2008 makes further provision about representations, which regulation 2(1) describes as representations "as to" a person's inclusion in a barred list. Regulation 2(2) requires DBS to give written notice of the opportunity to make representations and regulation 2(5) provides an eight week time limit for making representations which runs from the date on which the person is treated as having received the notice.

Rights of appeal

30. A barred individual has a right of appeal to the Upper Tribunal (section 4(1) of the 2006 Act). An appeal may only be made on the grounds that DBS made a mistake on

any point of law, or in any finding of fact on which the barring decision was based (section 4(2)). However, section 4(3) provides that “the decision whether or not it is appropriate for an individual to be included in a barred list is not a question of law or fact”. In other words, there is no right of appeal against a decision that it is appropriate to include a person in a barred list.

31. Regarding the Upper Tribunal’s factual jurisdiction, the Court of Appeal, in *DBS v JHB* [2023] EWCA Civ 982, said, “there is a distinction between the assessment of the evidential material on which a finding of fact is or might be based, and an assessment or value judgment, such as an assessment of risk, which is based on findings of fact which have already been made”. A disagreement about the evaluation of the evidence is not an error of fact, and if the DBS makes a finding of fact that was open to it on the balance of probabilities it does not make a mistake of fact (*JHB*, paragraph 93).

32. In *DBS v AB* [2021] EWCA Civ 1575, the Court of Appeal ruled, at paragraph 55, that the Upper Tribunal “will need to distinguish carefully a finding of fact from value judgements or evaluations of the relevance or weight to be given to the fact in assessing appropriateness”. A conclusion that a certain matter is likely to reduce the risk of inappropriate conduct is a value judgement rather than a finding of fact.

33. Unless the Upper Tribunal finds that DBS has made a mistake of law or fact, it must confirm DBS’ decision (section 4(5) of the 2006 Act). If such a mistake is found, the Upper Tribunal must either direct the individual’s removal from the barred list or remit the matter to DBS for a new decision (section 4(6)). If the Upper Tribunal remits, the individual is removed from the barred list pending DBS’ new decision unless the Upper Tribunal directs otherwise (section 4(7)(b)).

Arguments

Appellant

Ground 1

34. An individual should not be left trying to guess why DBS are minded to bar them. Here, the Appellant had no real opportunity to respond to DBS’ concerns because she did not know what they were. The DBS would not have faced any real difficulty or burden in setting out an overview of their concerns, especially in a context where barring would have such a significant impact.

35. The Appellant disputes that her earlier dealings with DBS should have left her with a sufficient understanding of the barring process to enable her to make informed

representations. Her 2018 children's barring raised different issues and, while she knew that she could make representations, did not know what she needed to say to demonstrate to DBS that she was not a risk. The right to make representations is of little use if the prospective barred person does not understand why barring is proposed. The Appellant submits that her adult barring representations were informed by concerns identified by DBS when barring her from working with children in 2018 but that did not allow her to address all the adverse findings ultimately made against her by DBS in deciding to bar her from working with vulnerable adults.

36. The Appellant accepts DBS' argument that it was for her to demonstrate that she should not be barred. However, she was not able effectively to perform that task when DBS gave no hint of the reason why they thought she should be barred from working with vulnerable adults.

37. DBS rely on the fact that the present barring decision-making process was initiated by the Appellant making contact with DBS to request that she not be placed on the adults' barred list. However, she was simply reacting to a statement in her 2018 children's barring decision letter which stated that she was not then placed in the adults' list because she had not expressed any interest in working with adults but that this may be reviewed 'at any time'. The Appellant acted responsibly by contacting DBS once she became interested in working with adults and this should not be held against her. And DBS, in response to the Appellant's contact, could have provided some explanation as to what she needed to demonstrate in order not to be barred, but failed to do so.

38. The Appellant accepts that her conviction was an important part of the context but that does not mean DBS were entitled to assume, without considering the relevant circumstances, that, of itself, it justified barring. In support, the Appellant provides details of cases in which others convicted of the same offence received far harsher punishments than did she, ranging from 8 to 13 years' imprisonment. The Appellant received a suspended sentence of 2 years' imprisonment and the Crown Court judge explained that this was for reasons that included evidence that the Appellant was "dominated, controlled and intimidated" by her then partner.

Ground 2

39. It is simply wrong for DBS, or any government body, to pressure an individual into entering an intimate relationship for 'testing' purposes and, at the hearing, the Appellant became noticeably distressed when addressing this point (she informed the panel that she was nevertheless in a fit state to continue with the hearing). The

Appellant said it was her human right to decide whether to have a relationship with anyone.

40. Moreover, DBS appeared to expect the Appellant to enter into another abusive relationship because only this would provide the ‘test’ that DBS seemed to have in mind. That is quite wrong.

41. In oral argument, the Appellant addressed DBS’ reliance on a therapist’s comment that she “felt the need to be a good therapy client”. She partially agreed with that comment but not DBS’ inference that it was evidence that she was prone to fall under another’s influence. The Appellant thought the therapist’s opinion was probably a result of the Appellant’s reluctance, in therapy sessions, to visit on the therapist the terrible details of her son’s injuries.

Ground 3

42. The Appellant rejects DBS’ reliance on the absence of plans to return her children to her care and that contact with them was supervised. The reasons for this cannot reasonably be considered relevant to her suitability to work with vulnerable adults. As the social worker confirmed, the reason for supervised contact was due to the children’s previous trauma and was for the children’s benefit; it was not the result of any assessment that the Appellant posed a risk to her children. The children do not live with the Appellant due to ‘exponential trauma experienced in the past’ and the complexity of the issues that she and her children need to work through, and is not reflective of her suitability to work with vulnerable adults. Her suitability was reinforced by other evidence overlooked by DBS, for example that which confirmed that the Appellant had developed ‘a broad repertoire of adaptive tools and coping strategies’. The Appellant also informed the Upper Tribunal that she now accepts that, at the moment, she does not have the ability to care full-time for four children who are recovering from extensive trauma.

Ground 4

43. The Appellant submits that this ground largely speaks for itself but adds that DBS also overlooked evidence that the Appellant now had proven safeguarding skills.

Ground 5

44. DBS fail to acknowledge that personal vulnerabilities can encompass a vast range of circumstances which can at times make a person more susceptible to abuse by a perpetrator, as it evidently happened to the Appellant in the past. The evidence relied on by DBS was not properly contextualised and overlooked other evidence that the Appellant had developed the knowledge she needed to keep herself safe.

DBS

Ground 1

45. DBS accept that the Appellant's conviction, for an offence under section 4 of the Domestic Violence, Crime and Victims Act 2004, was not a conviction that resulted in her automatic inclusion in the vulnerable adults' barred list without the right to make representations against barring. DBS also submit, clearly correctly, that the Appellant was not misled into thinking that she had no right to make representations against barring.

46. DBS concede that their 'minded to bar' letter was not as helpful or clear as it could have been. The phrase, "there are some offences where, if anyone receives a caution or conviction, they must be included in one or both barred lists" was intended to describe what is known as an 'autobar with representations' case, not an absolute automatic bar case. If representations are provided in time, an individual will still be included in the relevant barred list(s) if DBS concludes that "the test for regulatory activity" is met and it is "appropriate" to bar them. However, there is no need for DBS, in addition, to find either "relevant conduct" or "risk of harm" (as it will need to do in other types of scenarios). Parliament has therefore decided that some offences (autobar offences), including the offence for which the Appellant was convicted, are so serious that a different procedure/regime is set out for them as compared to non-autobar cases.

47. At the hearing, however, DBS appeared to place less reliance on the argument that 'autobar with representations' cases were, as a category, procedurally different or, where representations are duly made, nevertheless involve some kind of presumption in favour of barring. DBS rightly drew our attention to the Upper Tribunal's recent decision in *PC v DBS* (2025) UKUT 119 (AAC) where it said:

"40. We noted that although paragraph 2 is referred to as an "auto-barring" provision, in fact where representations have been made, DBS has in principle

exactly the same discretion under paragraph 2 as it does under paragraph 3 to determine whether it is appropriate to include someone on the barred list. Further, in principle, the conviction changes little that is relevant to DBS's statutory task of protecting vulnerable adults and children: the same conduct has occurred and the same risk arises whether someone has been convicted for it or not. However, we acknowledge that there may be some different considerations. In this case, for example, the appellant has with his conviction been made the subject of a Sexual Harm Prevention Order. If DBS were taking its decision now, it would need to take into account the terms and effect of that order and consider whether it was necessary also to bar the appellant in order to achieve the statutory safeguarding purposes. The fact of the conviction may also make a difference to what would be expected of DBS in terms of the need to ensure public confidence in the scheme."

48. The content of DBS' duty to entertain written representations is highly context and fact specific. The procedure followed need not be perfect. A court/tribunal should not lightly find that a procedure has been unfair: clear unfairness must be shown. The procedure operated by DBS in this case was plainly not so unfair as to be unlawful. The Appellant was given an adequate opportunity to address the relevant concern.

49. DBS' minded to bar letter should be considered as a whole and, if that is done, clearly shows that the Appellant was being invited to make written representations, and expressly stated, "We want you to tell us why we should not include you in the Adults' Barred List". The wider context was also relevant. The month before the letter was sent, the Appellant herself contacted DBS requesting that she not be included in the adults' barred list. The Appellant had prior experience of DBS' decision-making, gained when, in 2018, she was under consideration for inclusion in the children's barred list. Moreover, the Appellant did provide detailed written representations, accompanied by supporting evidence, in response to the minded to bar letter. Overall, despite possible shortcomings in the drafting of the letter, the Appellant was not treated unfairly.

50. DBS reject the suggestion that the minded to bar letter should have contained some explanation as to why DBS were minded to determine that it was appropriate to bar the Appellant from working with vulnerable adults. The Appellant's conviction was an undisputable fact, and it was of a type (autobar with representations) that would, in the absence of representations, inevitably result in the Appellant's barring. Any analysis by DBS in relation to "appropriateness" would come later, if at all, depending on whether representations were filed. Cases of this type differ from those where DBS

needs, in essence, to first prove, on the balance of probabilities, that there has been “relevant conduct” or “risk of harm” (in accordance with the 2006 Act definitions of those terms).

Ground 2

51. DBS style this as a ‘perversity’ ground and rightly submit that the threshold for a perversity finding is a high one.

52. The barring decision letter’s reference to progress not having been tested in a further relationship should not be taken out of context. There were, in this case, very serious, and entirely legitimate, concerns relating to the Appellant’s capability or willingness to identify and/or place the needs of vulnerable people above the needs/interests of a partner (or some other person in a position of influence over her). The evidence showed that such a failing was a feature in the Appellant’s conviction. In context, it was not perverse for DBS to have regard to the objective fact that the Appellant had not been in another relationship where ‘such things’ had been tested.

53. The absence of relationship testing was not the only matter relied on by DBS, but it was a reasonable consideration, among others, especially given the evidence that the Appellant had a clear and longstanding history of entering into highly problematic relationships in which people appear to have been subjected to, or exposed to the risk of, serious abuse. For instance, had the Appellant entered into a fresh relationship with a person who turned out to pose a relevant safeguarding risk, and then demonstrated both a capability and willingness to take effective action, that would have been a positive indicator. DBS were entitled to rely on the fact that one of their concerns had not been “tested” in that direct sense. Even a ‘normal’ relationship might still have provided some evidence relevant to the Appellant’s approach to identifying/managing safeguarding risk or issues in relation to a close partner. Further, the local authority social worker referred to the Appellant’s improvement and mental stability as ‘untested’.

54. In any event, the absence of relationship testing was not used by DBS as some kind of mandatory test to be passed in order to avoid barring. There were a number of other indicators that barring would be appropriate, including:

(a) the Appellant was not permitted to care for, nor have unsupervised contact with, her children;

(b) a recent psychological assessment identified a remaining limitation in terms of personal vulnerability, an opinion with which the Appellant herself expressly agreed.

55. Finally, DBS submit that it should be taken into account that the Appellant's 'starting point' was markedly weak given her conviction for causing / allowing the death of a child and a linked perjury conviction.

Ground 3

56. In relation to this, and subsequent, grounds, DBS submit that their decision letter and the 'Rationale Document' (or Barring Decision Making Procedure (BDMP) document) are to be read together in order to identify the substantive reasons for a barring decision (see *AB v DBS* [2016] UKUT 386 (AAC), para 35; *Khakh v ISA* [2013] EWCA Civ 1341 (paras 6, 20, 22)).

57. The social worker's evidence was admittedly limited but did state that significant issues remained as a result of which the Appellant was prevented not only from having care of her children but also from having unsupervised contact. DBS concluded their written arguments on this ground as follows:

"In the end, it was for [the Appellant] to show why she ought not be included in the list. There is a limit to how far DBS can or should or needed to go in terms of information gathering; particularly, it might be said, in an autobar (with representations) case."

58. At the hearing, Mr Serr, for DBS, described Ground 3 as relating to a 'transferability' issue – why was the fact that the Appellant could not care for her children relevant to inclusion on the adults' barred list. DBS submit that the threshold for adequate reasoning is relatively low and was met in this case. DBS' decision explained their view that vulnerable adults may have a similar risk profile to children and that they remained concerned that the Appellant might come under the influence of a work colleague not to report a safeguarding concern. That was an adequate explanation.

Ground 4

59. While the decision letter did not mention that the Appellant had re-sat the Freedom programme, and made further progress, the Rationale Document / BDMP showed that DBS were aware of these matters. DBS were also entitled to note and rely on the

Appellant's 'starting point'; it was hardly surprising that she had improved from such a low base. Indeed, the decision letter acknowledged the Appellant's efforts to improve, her positive progress and insight. Overall, the evidence was insufficient to show that sufficient progress had been made, and DBS did not fail to take into account a relevant consideration or piece of evidence.

Ground 5

60. It seems unarguably clear that, around the time of the events which led to the Appellant's conviction, she had poor problem solving and coping skills. DBS were entitled to infer that, at the date of the barring decision, such deficits remained to a significant degree, in reliance on the unchallenged primary fact that the Appellant was still only allowed supervised contact with her children. While the social worker's email about this was admittedly brief, it did link the issue not only to the children's complex needs but also the Appellant's ongoing "limitations" and "vulnerability".

61. DBS concede that the more recent evidence might indicate that the Appellant is heading in a positive direction, but also indicates, in DBS' submission, that she has some way to go before she can properly be trusted to operate, in an unrestricted way and without supervision/intervention/support, in regulated activity with vulnerable adults.

Determination of appeal

Ground 1

62. It is true that the right to be given an opportunity to make representations under paragraph 8 of Schedule 3 to the 2006 Act is not triggered by it appearing to DBS that barring might be appropriate. The right is triggered in the circumstances described in paragraph 8(2), that is where it appears that criteria prescribed in regulations are satisfied (e.g. a specified conviction) and the 'regulated activity relating to vulnerable adults' condition is met (e.g. a person might in future be engaged in regulated activity). The 2006 Act does not connect the representations right to it appearing to DBS that it would be appropriate to include a person in the adults' barred list.

63. It is also true that, in a paragraph 8 case, the representations right is not triggered by DBS proposing that an individual should be included in the adults' barred list. That differs from, for example, the 'behaviour' barring route provided for by paragraph 9 of Schedule 3 to the 2006 Act. In a behaviour case, the statutory triggers include that

DBS propose to include an individual in the adults' barred list and that inevitably means that DBS propose that it would be appropriate to include the individual in the list (given the way in which the barring criteria work). However, that difference may be explained by the fact that, in some paragraph 8 cases, the question whether barring is appropriate does not arise. These are the cases in which an individual fails duly to make representations in which case barring is, to all extents and purposes, automatic.

64. The issue in this case is whether the right to be given an opportunity to make representations, in a paragraph 8 case, impliedly requires DBS, in giving statutory notice of that right (in practice, issuing a minded to bar letter), to provide some indication as to why they are minded to decide that, in the event that representations are duly made, it would be appropriate to include an individual in the barred list. DBS' argument in this case (initially, at least) is that no such indication is required. We do not accept that it is never required, for the following reasons.

65. Paragraph 16(1) of Schedule 3 to the 2006 Act provides:

“A person who is, by virtue of any provision of this Schedule, given an opportunity to make representations must have the opportunity to make representations in relation to all of the information on which DBS intends to rely in taking a decision under this Schedule.”

66. In a paragraph 8 case, a DBS barring decision will include a determination that barring is appropriate. If DBS intend to rely on information in making such a determination, an individual must have the right to make representations in relation to the information. This feature of the statutory procedure shows that DBS are expected to make a 'minded to' determination as to appropriateness before issuing the notice which invites representations to be made. Otherwise, DBS would be unable to identify the information on which their appropriateness determination intends to rely and therefore be unable to comply with paragraph 16(1).

67. Under paragraph 8(4) of Schedule 3 to the 2006 Act, an individual has the right to make representations “as to why” the individual should not be barred. Assuming the specified conviction paperwork is in order and the regulated activity condition is met (matters which are rarely in issue, in the panel's experience), the 'why' question is whether barring is appropriate. If an individual's representations are to be meaningful, some indication needs to be given about why DBS are minded to determine that barring is appropriate. This is not something of benefit solely to the prospective barred

individual. It also has the potential to make DBS better informed when making the ultimate barring decision.

68. More generally, the purpose of a statutory right to make representations in relation to a decision that, if taken, would adversely affect an individual's rights is to provide the individual with the opportunity to persuade the public authority not to take that course. To make this right meaningful, the individual must have some idea of the target at which they need to aim. In the present context, this requires the individual to have some understanding as to why it is considered provisionally appropriate to include the individual in the adults' barred list.

69. We do not accept that, in an 'autobar with representations' case (where representations are duly made), the 2006 Act presupposes that DBS will determine that barring is appropriate unless the individual persuades them otherwise. DBS' must include the individual in the adults barred list if satisfied that barring is appropriate (and the regulated activity condition is met). The 2006 Act's use of "satisfied" is clearly not intended, in this statutory context, to enact a presumption in favour of barring because a prospective barred individual is clearly not going to try to satisfy DBS that barring is appropriate. The 2006 Act simply requires DBS to make an evaluative judgment (we would not ourselves describe it as involving the exercise of a discretion) as to whether barring is appropriate. In making that judgement, the 2006 Act provides neither a presumption in favour of, or against, barring.

70. We would not go so far as to hold that, in every paragraph 8 case, the statutory representations notice must include some indication of DBS' thinking as to why barring appears appropriate. There may be cases in which the nature of the relevant prescribed offence is such that there is no room for reasonable dispute as to why barring is considered appropriate. However, we are satisfied that the present case was not one in which it was obvious why DBS proposed to determine that it would be appropriate to include the Appellant in the adults' barred list. The Appellant's conviction was for causing or allowing the death of a child, but the issue at hand was whether the Appellant would be allowed to work with vulnerable adults and we consider that there was room for reasonable doubt as to why DBS proposed to determine that barring was appropriate. We do not accept that, in the case of any conviction under section 5 of the Domestic Violence, Crime and Victims Act 2004, whatever the circumstances, it would be obvious why the fact of the conviction would lead DBS to consider that barring the individual from working with vulnerable adults would be appropriate.

71. In this case, DBS' statutory notification simply informed the Appellant that they intended to include the Appellant in the adults' barred list "because of...your offence information". DBS revealed none of their thinking as to why the Appellant's actions (or inactions) in 2016 in relation to her infant child made her, in 2023, a person whom it was appropriate to bar from working with vulnerable adults. We now know that DBS reasoned that the Appellant's 2016 actions (or inactions) revealed some flaw in her mental functioning / personality, still present in 2023, that gave rise to a risk that, in a professional setting involving vulnerable adults, the Appellant would come under the influence of another to the extent that she would decline to take steps to safeguard vulnerable adults who were at risk of being harmed by that other person. We do not see how the Appellant could reasonably have deduced the nature of DBS' concern from the statement that barring was proposed 'because of your offence information'.

72. DBS are correct that the Appellant did, in fact, provide lengthy written representations in response to DBS' statutory notification. However, the representations almost exclusively addressed the Appellant's degree of culpability relating to the death of her child. The representations described how she had been psychologically dominated by her then partner but had come to understand that this was linked to a dependency relating to 'needing a relationship', and described steps taken to address that dependency. There is no indication that the Appellant was aware that the real issue of concern to DBS was a propensity to come under the influence of some bad actor in the workplace which would prevent the Appellant from reacting responsibly to safeguarding risks posed by that actor. We therefore decide that the Appellant was not given an opportunity to make effective representations against barring and the barring decision-making procedure followed by DBS was unfair. That amounts to a mistake of law in the barring decision which was the product of that procedure.

73. The above finding is sufficient to dispose of this appeal but, in case we have wrongly decided Ground 1, we shall now deal with the remaining grounds.

Ground 2

74. As we understand DBS' case, it is partly that the relationship testing finding was not a finding of fact on which the barring decision was based so that, by virtue of section 4(2)(b) of the 2006 Act, the finding, even if mistaken, is not a ground on which this appeal may be allowed.

75. The DBMP document includes a section headed ‘Susceptibility to peer influence’ and states that, while the Appellant now has a Diploma in Understanding Domestic Abuse, “this demonstrates progress [but] the progress does not appear to have been tested with a further relationship and therefore Definite Concerns remain”. In the decision letter itself, the finding was, “progress does not appear to have been tested within a further relationship and with your children back in your care, therefore this offers limited reassurance it has been successfully and wholly addressed and you are able to apply that learning to safeguard yourself and others”.

76. We do not accept that the relationship testing finding was not a finding on which the barring decision was based. Not only was it characterised as a ‘definite concern’ in the BMDP, it was a significant basis for DBS’s finding that the Appellant had not demonstrated that she was no longer liable to succumb to a malign influence that would prevent her from dealing properly with professional safeguarding concerns.

77. The underlying issue, on DBS’ analysis, was whether the Appellant remained susceptible to the malign influence of bad actors. The reason why the Appellant had failed to show sufficient progress in that respect was that she had not been ‘tested’ in a relationship (with or without children). A healthy and respectful relationship, with a person who did not seek to psychologically dominate the Appellant, would not provide the test that DBS had in mind. Such a relationship would say nothing about the Appellant’s susceptibility to malign influences in the workplace. The test that DBS must have had in mind was therefore an intimate relationship with a malign partner. We are satisfied that it was perverse for DBS to find that, without the test provided by such a relationship, the Appellant remained susceptible to psychological domination such that she would be likely to overlook safeguarding concerns related to a dominating individual.

78. The event that ultimately led to the Appellant’s barring was the murder of her infant child by (according to the sentencing judge) an abusive and psychologically domineering partner but, on DBS’ analysis, she was taken to remain susceptible to psychological domination because she had not yet shown an ability to resist domination in another abusive relationship. What made this finding perverse was the obvious implication that, if the Appellant wished to pursue her ambition of working with survivors of domestic abuse, she would first have needed to enter into, and survive, another abusive relationship. In making this finding, we are not seeking to replace DBS’ risk assessment with our own. We are instead scrutinising a finding on which that assessment relied.

Ground 3

79. There was no evidence that the Appellant posed a direct risk of harm to her children. The view of the social worker in 2022 was that the Appellant would not be able to meet her children's complex emotional and psychological needs, being needs which resulted from significant trauma and harm experienced when in the Appellant's care, and that contact remain supervised for the children's benefit due to previous trauma.

80. While we acknowledge that DBS' decision letter is open to different interpretations, in our view the better view is that DBS did not rely on their findings about the Appellant's problem solving and coping skills when deciding to include the Appellant in the adults' barred list, but only in deciding to retain the Appellant in the children's barred list.

81. Towards the beginning of the barring decision letter, DBS clearly rely on a single factor as relevant to both barred lists ("potential for you to transfer your conduct towards either vulnerable group in a regulated activity setting"). The next section of the letter discussed the Appellant's current role in her children's lives, found that she still had poor problem solving and coping skills and ended with a conclusion that the Appellant would remain in the children's barred list. After that, the decision letter discussed the potential for the Appellant to come under the influence of another before concluding that the Appellant is to be placed in the adults' barred list. On our reading of the letter, the current state of the Appellant's responsibilities for her children was relevant only to the children's barred list.

82. The present appeal only concerns the decision to include the Appellant on the adults' barred list and therefore Ground 3 cannot succeed.

Ground 4

83. On analysis, it appears to us that the Freedom programme evidence was also relied on by DBS only when making findings related to the Appellant's continued inclusion in the children's barred list, rather than the adults' barred list. The Freedom evidence was relied on in making findings about the Appellant's problem solving and coping skills, rather than her potential to come under another's influence. This ground of appeal cannot therefore succeed.

Ground 5

84. Again, in our judgment the finding with which this ground is concerned was relied on by DBS only in deciding to retain the Appellant in the children's barred list. This ground of appeal cannot succeed.

Disposal of appeal

85. This appeal succeeds. We must now decide whether to direct the Appellant's removal from the adults' barred list or remit the matter to DBS for a fresh decision. We do not consider that this is a case in which no decision other than removal from the adults' barred list is possible and therefore remit this matter to DBS for a new decision (*DBS v AB* [2021] EWCA Civ 1575).

86. We do not direct under section 4(7)(b) of the 2006 Act that, pending DBS' new decision, the Appellant is to remain on the adults' barred list. Even on DBS' analysis, the Appellant does not pose an immediate risk to vulnerable adults (DBS having found that the risk would arise once the Appellant came under another's influence in the workplace).

87. Finally, we apologise for the delay in giving this decision. It took some time for a recording of the hearing to be retrieved from storage, and the judge has also been absent from his duties due to illness.

Authorised for issue,
on 23 September 2026.

Upper Tribunal Judge Mitchell