

Neutral Citation Number: [2026] UKUT 400 (AAC)
Appeal No. UA-2024-001093-V

IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER

THE UPPER TRIBUNAL ORDERS that, without the permission of this Tribunal: No one shall disclose or publish the name or address of any of the following:
(a) AR, who is the Appellant in these proceedings;
(b) MB; and
(c) KB, who are referred to using the initials "AR", "MB" and "KB" respectively in this decision;
or any matter likely to lead members of the public to identify any of the persons mentioned at (a), (b) and/or (c) above.

Any breach of this order is liable to be treated as a contempt of court and may be punishable by imprisonment, fine or other sanctions under section 25 of the Tribunals, Courts and Enforcement Act 2007. The maximum punishment that may be imposed is a sentence of two years' imprisonment and/or an unlimited fine.

Between:

AR

Appellant

- v -

Disclosure and Barring Service

Respondent

Before: **Upper Tribunal Judge L. Joanne Smith**
Specialist Member J. Hutchinson
Specialist Member J. Heggie

Hearing date(s): 27 April 2026
Mode of hearing: In person

Representation:
Appellant: Mr S. Richardson
Respondent: Mr T. Wilkinson of Counsel, instructed by DLA Piper UK LLP

On appeal from the decision of the Disclosure and Barring Service:
DBS reference: 01024728088
Decision letter: 10 May 2024

DECISION

The decision of the Upper Tribunal is to DISMISS the appeal.

SUMMARY OF DECISION

This is an appeal against the decision of the Disclosure and Barring Service dated 10 May 2024 to include the Appellant's name on the Children's and Adults Barred Lists. The Upper Tribunal determined that the DBS did not err in law in its assessment of proportionality in its barring decision. The appeal was dismissed.

Keywords: Safeguarding Vulnerable Groups (65.1 Children's Barred List; 65.2 Adults Barred List; 65.8 Proportionality)

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 judge follow.

REASONS FOR DECISION

Introduction

1. This is AR's appeal against the decision of the Disclosure and Barring Service ("DBS"), communicated in a final decision letter ("FDL") dated 10 May 2024, to include her name on the Children's Barred List ("CBL") and the Adults' Barred List ("ABL") in accordance with paragraphs 3 and 9 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006 ("the Act"), respectively.

2. The appeal was considered at an oral hearing which took place on 27 April 2026 in Newcastle-upon-Tyne. The Appellant was represented by Mr S. Richardson, a lay representative. Unfortunately Mr Richardson had been called away for work purposes at the last minute, so neither the Appellant nor her representative were present at the hearing of the appeal. They consented to it proceeding in their absence, having provided written representations in advance. We considered it to be in the interests of justice to proceed with the appeal given that they sought no further delay. The Respondent was represented by Mr T. Wilkinson of Counsel.

3. We are grateful to the parties for their assistance in determining this matter, particularly to counsel for the Respondent, for the preparation of his skeleton argument, and for his oral submissions during the appeal. We are also grateful for the Appellant's written representations and assistance throughout.

4. Within this decision, numbers contained in square brackets "[ ]" refer to the electronic page numbers within the Upper Tribunal electronic bundle of papers in relation to this appeal.

The DBS' decision

5. The DBS' decision was made on the basis that the Appellant had worked as a carer with vulnerable adults and had made an enhanced DBS disclosure check for a job in the role of "Volunteer Child Care". This was considered to meet the criteria for "regulated activity" under the Act.

6. The DBS received information that an incident involving the Appellant had occurred at her workplace on 8 November 2023. On the basis of information received, the DBS made the following findings of fact:

    - *"On 8/11/2023 [the Appellant] incorrectly lifted a service user, who had an unsupervised fall after [the Appellant] had left the room, without verbally and physically checking for injury and calling for assistance prior to doing so"*
    - *"On 8/11/2023 [the Appellant] had a colleague record an incident form in relation to the service user's fall with false information."*

7. The DBS considered this to amount to "relevant conduct" in relation to a vulnerable adult, which if repeated against a vulnerable adult or a child, would or would be likely to endanger such a vulnerable adult or child (paragraph 4(1)(b) and 10(1)(b) of Schedule 3 to the Act). It therefore concluded, after conducting a risk assessment and with consideration of the Appellant's written representations, that it was both appropriate and proportionate to include the Appellant's name on the two barred lists.

Permission to appeal

8. By decision authorised for issue on 13 June 2025, Judge L. Joanne Smith granted permission to appeal on the following ground:

    "11. The Appellant also mentions that this is one mistake in her work as a carer for which her career has ended. It appears that the incident on 8 November 2023 was an isolated event. There does not appear to be a history of such incidents by the Appellant. This brings the proportionality of the decision to bar

the Appellant into question. With reference to the analysis of proportionality set out in B v Independent Safeguarding Authority (Royal College of Nursing intervening) [2013] 1 WLR 308, and the recent decision in KS v Disclosure and Barring Service [2025] UKUT 045 (AAC), I find it arguable that the DBS erred in law in determining it to be proportionate to include the Appellant's name on the barred lists. I therefore grant permission to appeal on this sole ground."

The factual allegations

9. This appeal related exclusively to whether the DBS' decision was proportionate in light of this single incident having taken place during the Appellant's work in the care sector. The findings of fact were not under challenge in the appeal. In short, on 8 November 2023, while the Appellant was on shift, a service user ("MB") fell after the Appellant had left her to open the door. The Appellant lifted MB incorrectly, before verbally and physically checking for injuries, and without calling for assistance from another member of staff. She thereafter asked another member of staff to complete the incident report, which described inaccurate details of the fall.

10. The Appellant accepts that this took place as alleged. In the disciplinary meeting with her employer, she accepted that she did not follow the correct procedure in how she lifted the service user, and that she did not follow procedure in asking another remember of staff to complete the incident report. In mitigation, she stated that she had checked for injuries but only after lifting MB back to her feet. She had asked someone else to write the report as she had other service users to attend to and her English language was poor. The Appellant was dismissed for gross misconduct at the end of the disciplinary meeting and she did not appeal this decision.

11. The incident had come to light a family member of MS had seen it happen on CCTV. The footage was available to the DBS when it made its barring decision, and was made available to the panel, who watched it during the appeal (1 minute, 5 seconds in length). From the footage, it could be seen that the service user fell as she was trying to move forward using her walking frame. She was alone at the time. The Appellant returned immediately to her aid, lifted her under her armpits, in the same manner as an adult would typically lift a child, and then asked if she was hurt. The specialist panel members confirmed that this was not the correct procedure to lift a vulnerable service user such as MB. The details on the incident form did not precisely accord with the incident that was observed on the CCTV footage.

The submissions

12. The Appellant submits that this was one mistake in her time working as a carer. She states that she is now in new employment which she very much enjoys and will never work in care again as a result of how this incident was handled. Her other written submissions reiterated the account she gave in the disciplinary hearing, and the representations she made to the DBS. She repeats that she was just trying to help the lady who had fallen. She very much disliked her employer describing the incident as "abuse" of the lady. She disagrees with the fact that her mistake against a vulnerable adult has resulted in her being including on the CBL. These submissions were taken into account in making this decision, however only insofar as they assisted in determining the proportionality issue for which permission to appeal was granted.

13. Mr Wilkinson, on behalf of the Respondent, submits that the decision to bar the Appellant is proportionate due to the risk of future recurrence, especially as the Appellant was trained in the procedures for lifting a service user and reporting an incident, yet made a conscious decision to act against that training. He continues that the service user was seen to be lifted from under her arms, when she had arthritis in her shoulders thus injury was possible from the lift alone. He submits that the Appellant did not check for injuries, regardless of the fact that her lift may have exacerbated them, and she prioritised other matters instead of fulfilling her reporting duties, all of which was contrary to her training. This caused risk to a vulnerable service user whose injuries may have gone undetected.

14. The incident report was inaccurate, he submits, as it referred to a "slight fall" and the need to provide "minimal assistance" to the service user. This inappropriately minimises the incident and, in the view of the Respondent, demonstrates a risk that the same may occur again. The Appellant should have acknowledged her mistake immediately and tried to correct it, thus prioritising the service user, regardless of any consequences that might follow for her.

15. The Respondent submits that the DBS weighed the risk of recurrence within the Structured Judgement Process section of the Barring Decision Summary document, concluding that as the risk was sufficiently high, the decision to bar was not disproportionate. The DBS acknowledged that the Appellant did not have a history of such behaviour but her attempts to minimise the seriousness of the incident, even right up to the date of the appeal, suggest that she had not learned from her mistake. DBS did not enquire about the length of her care career but dealt with the information presented to it. One incident, regardless of the length of career, is sufficient to bar the Appellant. In any event, she did not make this representation prior to the DBS decision being made.

16. The panel enquired about the Respondent's view on the Appellant making a quick decision which in hindsight she realised was wrong. Mr Wilkinson stated that she had time to think about a response and she made a conscious decision to act as she did. Equally, any suggestion that she acted out of fear of repercussions, does not assist the Appellant as she thereafter made a conscious decision to falsify the incident record when a carer should understand the importance of notes being correct so that proper care is provided. She was not putting the service user at the forefront of her priorities when she should have done. She still continued to deny the significance of the incident.

17. It was highlighted that the disciplinary meeting was rather accusatory in tone. Mr Wilkinson submits that this reflected the seriousness of the incident and of what could have happened. In any event, he correctly asserts that the tone of the disciplinary meeting does not affect the proportionality of the DBS' decision. He acknowledged, as did the DBS in its decision letter, that the Appellant had no known history of such issues having happened in the past.

The Legal Framework

18. The DBS is responsible for deciding, under the Safeguarding Vulnerable Groups Act 2006 (the "Act"), whether individuals should be placed on the CBL and/or the ABL, to prohibit them from undertaking "regulated activity" with either children, vulnerable adults or both (ss. 2-3 and Schedule 3 of the Act). "Regulated activity" is defined in section 5 and Schedule 4 of the Act and fundamentally amounts to undertaking teaching and/or caring roles involving children and/or vulnerable adults.

19. The DBS' decision to include the Appellant's name on the CBL was made pursuant to paragraph 3 of Part 1 of Schedule 3 to the Act (headed "Behaviour"). Her name was included on the ABL pursuant to paragraph 9 of Part 2 of Schedule 3 of the Act, (also headed "Behaviour"). We set out the paragraph 3 provisions below in relation to the CBL. The paragraph 9 provisions relating to vulnerable adults are essentially the same.

> *"3. (1) This paragraph applies to a person if –*
> *(a) it appears to DBS that the person—*
> *(i) has (at any time) engaged in relevant conduct, and*
> *(ii) is or has been, or might in future be, engaged in regulated activity relating to children, and*
> *(b) DBS proposes to include him in the children's barred list.*
> *(2) DBS must give the person the opportunity to make representations as to why he should not be included in the children's barred list.*
> *(3) DBS must include the person in the children's barred list if —*
> *(a) it is satisfied that the person has engaged in relevant conduct,*

(aa) it has reason to believe that the person is or has been, or might in future be, engaged in regulated activity relating to children, and

(b) it is satisfied that it is appropriate to include the person in the list.

…"

20. "Relevant conduct" in relation to children is defined in paragraph 4 of Part 1 of Schedule 3 to the SVGA (echoed in relation to adults within paragraph 10 of Part 2) as follows:

> *"4. (1) For the purposes of paragraph 3 relevant conduct is –*
>
> *(a) conduct which endangers a child or is likely to endanger a child;*
>
> *(b) conduct which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him;*
>
> *(c) conduct involving sexual material relating to children (including possession of such material);*
>
> *(d) conduct involving sexually explicit images depicting violence against human beings (including possession of such images), if it appears to DBS that the conduct is inappropriate;*
>
> *(e) conduct of a sexual nature involving a child, if it appears to DBS that the conduct is inappropriate.*
>
> *(2) A person's conduct endangers a child if he –*
>
> *(a) harms a child,*
>
> *(b) causes a child to be harmed,*
>
> *(c) puts a child at risk of harm,*
>
> *(d) attempts to harm a child, or*
>
> *(e) incites another to harm a child.*
>
> *…"*

<u>The right to appeal</u>

21. Section 4(2) of the Act confers a right of appeal to the Upper Tribunal against a decision of the DBS in two situations. The first is on the ground of the DBS having made "a mistake on any point of law" (s.4(2)(a)). The second is on the ground of the DBS having made "a mistake in any finding of fact which it has made and on which the decision [to include a person on a barred list] was based" (s.4(2)(b)). Section 4(3) of the Act 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". Consequently, the question of appropriateness is exclusively a matter for the DBS to determine and not something that the Upper Tribunal can interfere with.

22. On appeal, it is for the appellant to demonstrate a mistake of law or a mistake of fact upon which the decision to bar was based (*PF v Disclosure and Barring Service* [2020] UKUT 256 (AAC at [49]). The Upper Tribunal must confirm the decision of the DBS unless it finds that the DBS has made a mistake of law or fact (s.4(5)). If the Upper Tribunal finds that the DBS has made such a mistake, it must either direct the DBS to remove the person from the relevant barred list(s)

or remit the matter to the DBS for a fresh decision to be made (s.4(6)). Where the Upper Tribunal remits a matter back to the DBS, it may set out any findings of fact which it has made and on which the DBS must base its new decision. The person must be removed from the barred list(s) until the DBS makes its new decision, unless the Upper Tribunal directs otherwise (s.4(7)).

Proportionality

23. Section 6(1) of the Human Rights Act 1998 provides that, "it is unlawful for a public authority to act in a way that is incompatible with a Convention right." A barring decision made by the DBS engages the Appellant's Article 8 right to respect for her private and family life, her home and her correspondence. This is a qualified right, which permits interference which is "in accordance with the law and is necessary in a democratic society…" (Article 8(2)). Whether or not an act of a public authority is incompatible with a Convention right will often turn on whether it complies with the principle of proportionality.

24. Whether a decision of DBS is disproportionate is an issue of law: *R (Royal College of Nursing) v Secretary of State for the Home Department [2011] PTSR 1193 at [104] and B v Independent Safeguarding Authority (Royal College of Nursing intervening) [2013] 1 WLR 308 at [14].* The Upper Tribunal is entitled to consider whether a barring decision is proportionate and in the event of such a challenge, it must conduct a proportionality analysis for itself (see *Re B (Care Proceedings: Threshold Criteria)* [2013] 1 WLR 1911). The analysis will depend on whether DBS's findings were both rational and complete. An error of fact or an error of law may affect the proportionality of DBS's decision.

25. The proper approach to proportionality was outlined in *KS v DBS* [2025] UKUT 045 (AAC). The test of proportionality must be applied "by reference to the circumstances prevailing when the issue has to be decided" (*Wilson v First County Trust (No 2)* [2004] 1 AC 816 at [61]) i.e., the date of the decision under appeal (*KS* at [43]). Proportionality is distinct from appropriateness. It sets the limit as to what may be appropriate, but it is never appropriate for the DBS to make a decision which is disproportionate. Equally, proportionality is only part of what is appropriate, therefore the DBS need not find it appropriate to bar in a case where it finds it is proportionate to do so (*KS* at [47]). In making its own assessment of proportionality, the Upper Tribunal must have regard to the DBS' statutory role as the primary decision maker and must assess the appropriate weight to be given to the DBS' analysis of the matter (*KS* at [53]). In *Belfast City Council v Miss Behavin' Ltd* [2007] 1 WLR 1420, at paragraph 16, Lord Hoffman stated that "[i]f [a] local authority exercises [a] power rationally and in accordance with the purposes of the statute, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights." Thus, rationality

and *Wednesbury* unreasonableness are not matters of concern for an assessment of proportionality (*KS* at [50]).

26. The test for determining proportionality, is the four-stage test set out by Lord Reed in *Bank Mellat v Her Majesty's Treasury (No 2)* [2014] AC 39. The test is as follows: (1) *whether the objective of the measure is sufficiently important to justify the limitation of a protected right*. As the objective of the DBS, in the most general terms, is to protect children and vulnerable adults from harm by those entrusted with their care in regulated activity, that objective is sufficiently important to justify interfering with the barred individual's exercise of their Article 8 Convention rights (*KS* at [58]); (2) *whether the measure is rationally connected to the objective*. The DBS' decision under the barring scheme prohibits the barred individual from engaging in regulated activity, which is rationally connected to the objective of the scheme (*KS* at [59]); (3) *whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective*. The DBS has no power to limit the extent to which the bar applies. It cannot apply a temporary bar while it investigates the care, nor can it limit the scope of the bar to specified types of regulated activity. It cannot permit a person to engage in regulated activity subject to conditions. It may not include a person's name on the barred list(s) unless and until a trigger under the 2006 Act is engaged and the statutory conditions for barring are satisfied. Once satisfied, the DBS is under a duty to include the person in either or both of the barred lists (*KS* at [61]); (4) *whether balancing the severity of the measure's effects on the rights of the persons to who it applied against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter*. This involves a balancing exercise between the severity of the effects on the barred individual's exercise of their Article 8 Convention right and the importance of the objective of barring them from regulated activity. This is a matter of judgement (*KS* at [71]).

Analysis

27. The DBS' assessment of proportionality was set out at page 3 of its FDL as follows [11]:

> *"It is accepted that being minded to bar you from working with children and vulnerable adults may significantly impact on your employment prospects and that it would have a significant impact on your chosen field of employment, as we know you worked as a Carer with vulnerable adults and you have made an enhanced disclosure application to volunteer in Child Care. It is acknowledged that a possible decision to bar 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 children and vulnerable adults. Additionally, it is possible that your removal from the entire children's and 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. There is insufficient information known about you or your personal circumstances at this time and it is not possible to ascertain the full extent of the imposition of a bar upon you.

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, being minded to bar you in the Children's and Adults' Barred Lists, whilst potentially impacting on your prospective career options, may be a proportionate safeguarding measure given the significant nature of your apparent attitude and irresponsible and reckless neglectful behaviour, which the DBS lacks information to support would not repeated again in the future with either children or vulnerable adults. It is therefore considered an appropriate and proportionate safeguarding measure to be minded to bar you on the Children's and Adults' Barred Lists."

28. We note that this was "cut and paste" from the Minded to Bar Letter and was therefore inappropriately phrased in places. The DBS did not make enquiries to ascertain a clearer picture of the impact of its barring decision when it recognised that it did not have such information. Nevertheless, it weighed the Appellant's Article 8 rights against the impact of its decision to bar her, with consideration of the impact on her employment opportunities and financial stability. It concluded that the need to protect children and vulnerable adults outweighed those impacts and thus a barring decision was proportionate.

29. With reference to the facts of this case, and the representations made by both parties, and giving due deference to the views of the DBS, we must decide for ourselves whether the DBS' decision was proportionate. We do so in accordance with the principles set out in the leading decision of the Upper Tribunal in *KS v Disclosure and Barring Service* [2025] UKUT 45 (AAC). We apply the facts of this case to the four criteria set out by Lord Reed in *Bank Mellat v Her Majesty's Treasury (No 2)* [2014] AC 39 as referenced in Section V of that decision.

30. The first two questions do not lend themselves to much discussion. Firstly, *is the objective of the measure sufficiently important to justify the limitation of a protected right?* The "measure" is the barring decision made by the DBS under the Act. Its objective, in general terms, is to protect children and vulnerable adults from harm caused by those entrusted with their care, within the context of specified "regulated activity". That objective is sufficiently important to justify the interference with the Appellant's exercise of his Article 8 Convention rights.

31. Secondly, *is the measure rationally connected to the objective?* The DBS' barring decision (the measure) prohibits the Appellant from engaging in regulated activity with children and vulnerable adults (the objective). This is rationally connected to the objective of the barring scheme under the Act which is designed to protect children and vulnerable adults from harm by those entrusted with their care.

32. The third and fourth questions in *Bank Mellat* open the appeal for some debate. The third question asks *whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective*. The DBS included the Appellant's name on the CBL and ABL in view of her actions on 8 November 2023, for incorrectly lifting a service user, failing to properly assess her for injuries and having another member of staff complete the incident form, which did not accurately describe the incident. This behaviour was considered to be conduct which engendered, or was likely to endanger, a vulnerable adult ("relevant conduct"). Having been engaged in "regulated activity" with vulnerable adults, and after considering timely representations, this conduct amounted to a specified trigger under the Act, entitling the DBS to make a barring decision if it was deemed "appropriate" to include the Appellant's name in the barred list(s). However, the DBS was still required to consider whether a measure less intrusive than inclusion on the barred list could have achieved the objective of protecting children and vulnerable adults from harm.

33. This was a single incident within what appears to be an 18-month period of care work. The employer did not offer further training or supervision from another member of staff, for example, as an alternative to dismissal. The Appellant's employer considered her actions to amount to gross misconduct which warranted immediate dismissal. The Appellant did not challenge that decision.

34. The Appellant's dismissal prevented her from working with vulnerable adults in that particular workplace. It is unlikely that she would obtain a good reference from this employer should she apply for a job in another care home, thus limiting her employment prospects in the care sector with vulnerable adults. It does not necessarily limit the Appellant's employment prospects in roles involving children. Regardless, the discretion as to whether to employ or engage the services of the Appellant within regulated activity, despite a poor reference or the history of this having happened, remains with the employer. Inclusion of the Appellant's name on the barred lists removes such discretion from an employer and the protection of children and vulnerable adults achieves certainty.

35. The DBS, upon receipt of a report and evidence which it finds to satisfy the requirements of paragraph 3 and/or 9 of Schedule 3 to the Act, has only two choices – to bar or not to bar. It cannot offer training or a period on probation prior to making a barring decision. Quite simply, if all the requirements are met and the DBS considers that it is "appropriate" to bar the Appellant, then it is

obliged to do so. The Upper Tribunal has no scope to interfere with the DBS' decision on the question of whether the decision to bar is appropriate.

36. We find that there are no less intrusive measures available which would provide sufficient protection for children and vulnerable adults and thus avoid the need to bar the Appellant. Any discretion left with an employer could unacceptably compromise the achievement of the objective i.e., to protect vulnerable adults in regulated activity but there is no scope for discretion if a person's name is included on a barred list.

37. Turning then to the fourth question: *whether balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter*. This is a balancing exercise between the severity of the effects on the barred individual's exercise of their Article 8 Convention rights i.e., the limitations placed on the Appellant's life by virtue of inclusion on the barred list(s), and the importance of barring them from regulated activity to protect children and vulnerable adults. The objective for including the Appellant on the barred lists is to protect children and vulnerable adults from harm from those entrusted with their care in regulated activity. Her inclusion on the barred lists prevents the Appellant from working in regulated activity which naturally contributes towards achieving that objective. This is the effect on the Appellant's Article 8 rights and it is the severity of this effect that is a matter of judgement for the Upper Tribunal in this case. We need only concern ourselves with matters that affect this test.

38. Inclusion on the barred lists certainly limits the Appellant's ability to work in regulated activity with both vulnerable adults and children. Nevertheless, although limited, she retains the ability to engage in a wide variety of other careers and jobs. By reducing the career options available to the Appellant, her earning capacity is potentially reduced. However, she remains in a position to earn and to sustain herself. From her own submissions, she has gained employment in an unregulated area which she enjoys and she does not plan to return to a career in care in any event. It is possible, and indeed she has proved it to be possible, for the Appellant to live a comfortable life and enjoy employment within a field that remains open to her.

39. We were presented with no evidence that the Appellant's physical or mental well-being was impacted by this decision. She is clearly upset by the decision and the severity of the consequences. Her written comments that she does not want to be found "guilty" of this conduct suggests that she feels a stigma arising from the barring decision. Indeed, such a decision does carry a stigma with it, but it is not something that is widely known without making specific enquiries. The Appellant has clearly gone to some lengths to overcome any stigma by gaining

alternative employment and by ensuring that the decision does not impact upon her earning capacity or her personal well being. While these considerations must be taken into account, protecting children and vulnerable adults from harm is of greater importance, and this, we find, outweighs the limited reduction in the Appellant's standard of living in this particular case.

40. Consequently, having considered the four-stage test in *Bank Mellat*, we find that the DBS' decision to include the Appellant's name on the barred lists is proportionate, and is not therefore made in error of law. While the force of the Appellant's submissions indicate that she disagrees with the "appropriateness" of the barring decision, we are not at liberty to interfere with that aspect of the case, regardless of whether we might have reached a different conclusion on that point.

Conclusion

41. For the reasons outlined in this decision, we find that the Respondent did not err in law in making its barring decision. We therefore dismiss this appeal and confirm the decision of the Disclosure and Barring Service dated 10 May 2024 to include the Appellant's name on the Children's and Adults' Barred Lists.

L. Joanne Smith
Judge of the Upper Tribunal

Mr J. Hutchinson
Specialist Member of the Upper Tribunal

Ms J. Heggie
Specialist Member of the Upper Tribunal

(Authorised for issue on)
14 October 2026