



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: HU/06377/2016

THE IMMIGRATION ACTS

Heard at North Shields  
On 25 September 2018

Decision & Reasons Promulgated  
On 11 October 2018

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

[U B]  
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Bukhari, Solicitor

For the Respondent: Mr Howells Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE  
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of the First-tier Tribunal (a panel formed of Designated Judge Appleyard and First-tier Tribunal Judge Head-Rapson) promulgated on 23 May 2017.
3. For the reasons given at the hearing on 25 September 2018, I am satisfied that the decision of the First-tier Tribunal involved the making of an error of law in that they made basic errors of fact: whether the appellant had lived with her partner for two years prior to the most recent application (she had); appeared to think this was an Entry Clearance Application (it is not); and, failed to note that the appellant's partner's parents had not been referred to in the initial application as at that point they were not living in the United Kingdom. Further, the panel failed to note that the parents had been granted leave to remain as elderly dependent relatives, and

that thus they had already shown that they require long-term personal care to perform everyday tasks and were unable even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living. As was accepted by Mr Howells, their son had had to give a guarantee to meet their needs for five years in the United Kingdom.

4. In the circumstances, Mr Howells accepted that there were, on the particular facts of this case, insurmountable obstacles to the family life between the appellant and her partner being conducted outside the United Kingdom, and on that basis, I am satisfied that removal would be disproportionate.
5. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provided that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

**Notice of Decision**

1. The decision of the First-tier Tribunal involved the making of an error of law and is set aside.
2. I remake the appeal by allowing it on human rights grounds

Signed

Date: 25 September 2018



Upper Tribunal Judge Rintoul