Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: HU/13273/2018**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 22 October 2019	**On 1 November 2019**

Before

UPPER TRIBUNAL JUDGE KEITH

Between

'GAD'
(ANONYMITY DIRECTION MADE)

Appellant

and

THE ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr O Ogunnowo, Solicitor, Allison Solicitors
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. Failure to comply with this direction could lead to contempt of court proceedings.

DECISION AND REASONS

1. These are the approved record of the decision and written reasons which were given orally at the end of the hearing on 22 October 2019.

2. This is the remaking of the decision in the appellant's appeal on human rights grounds against the respondent's refusal on 5 April 2018 of entry clearance, to join her father, a British national, (the 'sponsor'), in the United Kingdom ('UK').

3. First-tier Tribunal Judge M Davies (the 'FtT') dismissed her appeal against the respondent's refusal in a decision promulgated on 21 March 2019. The FtT found that the appellant and the sponsor were related as claimed, but that the sponsor did not have sole parental responsibility for the appellant, noting that the appellant had been brought up by her mother, then aunt; and now the sponsor's best friend.

4. The appellant appealed on 12 April 2019, arguing that the FtT had failed to make any finding on whether the appellant's mother had died, so that the appellant would meet the requirements of paragraph 297(i)(d) of the Immigration Rules; failed to explain why, if he found the sponsor to be credible, the FtT had concluded that the sponsor did not have sole parental responsibility for the purposes of paragraph 297(i)(e); and misdirected himself on the fact of the appellant's cohabitation with people other than the sponsor; and there were insufficient reasons for concluding that the appellant's exclusion from the UK was not undesirable, for the purposes of paragraph 297(i)(f).

5. This Tribunal dismissed the appeals and preserved the FtT's findings in relation to the grounds of appeal under paragraphs 297(i)(d) and (f), in the error of law decision, which was promulgated on 25 July 2019, and which is annexed to this remaking decision.

The issue in this appeal

6. The decision of the FtT in relation to Paragraph 297(i)(e), namely the question of sole parental responsibility, did contain an error of law, such that the findings on that issue were set aside and needed to be remade. It was this single issue which is the subject of this remaking decision. While the appeal is on human rights grounds, I must consider it through the lens of the Immigration Rules first, i.e. whether the sponsor has sole parental responsibility for the appellant.

The gist of the respondent's refusal

7. The core points taken against the appellant were that correspondence from the appellant's school did not refer to the sponsor having sole parental responsibility, particularly when the appellant's claim that her mother is no longer alive, is found to be not reliable; that financial support for the appellant was not sufficient to demonstrate sole parental responsibility; and there was no evidence that the sponsor took the important decisions regarding the appellant's upbringing. In previous interviews in 2006, the sponsor had not suggested that he was in contact with his two children, who included the appellant.

The Law

8. On the issue of sole or shared responsibility, the case of TD ("Sole Responsibility) Yemen [2006] UKAIT 00049 sets out, at paragraph 52, the approach for considering sole responsibility:

"i. Who has "responsibility" for a child's upbringing and whether that responsibility is "sole" is a factual matter to be decided upon all the evidence.
ii. The term "responsibility" in the immigration rules should not to be understood as a theoretical or legal obligation but rather as a practical one which, in each case, looks to who in fact is exercising responsibility for the child. That responsibility may have been for a short duration in that the present arrangements may have begun quite recently.
iii. "Responsibility" for a child's upbringing may be undertaken by individuals other than a child's parents and may be shared between different individuals: which may particularly arise where the child remains in its own country whilst the only parent involved in its life travels to and lives in the UK.
iv. Wherever the parents are, if both parents are involved in the upbringing of the child, it will be exceptional that one of them will have sole responsibility.
v. If it is said that both are not involved in the child's upbringing, one of the indicators for that will be that the other has abandoned or abdicated his responsibility. In such cases, it may well be justified to find that that parent no longer has responsibility for the child.
vi. However, the issue of sole responsibility is not just a matter between the parents. So even if there is only one parent involved in the child's upbringing, that parent may not have sole responsibility.
vii. In the circumstances likely to arise, day-to-day responsibility (or decision-making) for the child's welfare may necessarily be shared with others (such as relatives or friends) because of the geographical separation between the parent and child.
viii. That, however, does not prevent the parent having sole responsibility within the meaning of the Rules.
ix. The test is, not whether anyone else has day-to-day responsibility, but whether the parent has continuing control and direction of the child's upbringing including making all the important decisions in the child's life. If not, responsibility is shared and so not "sole".

9. In considering article 8 of the ECHR, I also needed to take into account section 117A of the Nationality, Immigration and Asylum Act 2002. Section 117A required me to consider, in cases where I must determine whether the respondent's decision breached the appellant's rights to a family life under article 8, the considerations listed in section 117B of that Act. The burden of showing facts to the ordinary civil standard rests with the appellant to show that her article 8 rights had been interfered with.

Findings of fact

10. I considered all of the evidence presented to me, whether I refer to it specifically in these findings or not.

11. The sponsor provided a brief written witness statement, the brevity of which I do not criticise; and was also cross-examined by Mr Melvin. The gist of the witness statement was that the sponsor reiterated his assertion that the appellant's mother was no longer alive. He described the fact of his marriage to the appellant's mother. Following his relocation to the UK in August 2007, he left the appellant in the care of R M, the appellant's paternal great-aunt. While R M was looking after the appellant on a day-to-day basis in line with the authority of **TD**, all of the day-to-day decisions including financial support, high school education as well as general welfare were made solely by the sponsor.

12. On R M becoming married and joining her spouse in September 2017 in Accra whilst the appellant was in a boarding school, the appellant then had to come under the day-to-day care, as arranged by the sponsor, of his friend F K, on a temporary basis. That arrangement could not be sustained as Mr F K had then emigrated from Ghana to the United States in April 2019, which then necessitated the sponsor to make an unplanned trip to Ghana to arrange yet further care outside the school terms with a friend, E B, from April 2009 onwards. There was evidence that the sponsor had travelled to Ghana, when he provided his plane ticket to this Tribunal for the purposes of an adjournment application. While I accept the fact of the sponsor travelling to Ghana, it did not follow that the sponsor necessarily had sole parental responsibility for the appellant. I had previously granted the adjournment application on the basis that the sponsor was a key witness in the case and therefore it was in accordance with the overriding objective that the case be adjourned.

13. In terms of the other evidence, before I come on to the findings, the bundle included documentation about the sponsor's flight, the fact of the sponsor's mother's death to which I had already given consideration and which I did not regard as accurate, and also correspondence from the high school apparently attended by the appellant dated 5 June 2018, at page [20] in which it stated that the appellant was a student at the school and that the sponsor had been calling to enquire about her progress and educational needs. The letter continued that:-

> *"He communicates with the house mistress on her conduct and welfare.*
>
> *During his visit to Ghana early this year, he personally paid the school a visit to interact with authorities on his ward's welfare.*
>
> *The school is satisfied with his monitoring, follow ups and concern of his daughter's education.*
>
> *I therefore recommend that, kindly render him the necessary assistance and support he may require from your high office without difficulties".*

14. It also included reports which indicated satisfactory educational performance as well as fee payments made by the sponsor which had never been disputed.

15. There was also evidence in the remainder of the bundle to social media contacts which clearly support a genuine parental relationship between the appellant and the sponsor. Also of note, although not included in the bundle before me but which had been included by Judge Mark Davies was a reference at paragraph [25] of Judge Davies's decision as follows:-

> *"I am satisfied on the basis of the evidence that has been submitted that the sponsor makes financial contributions towards the appellant's upkeep and that he has made arrangements for her to live with his best friend who has confirmed those arrangements in a letter dated 20th August 2018."*

16. Nevertheless, as already previously considered, Judge Davies had considered that sole parental responsibility had not been shown, albeit I had concluded that reason was not adequate.

17. In terms of my findings, I am not satisfied that the appellant has shown on the balance of probabilities that the sponsor has sole parental responsibility for her. I accepted Mr Ogunnowo's submission that even if the appellant's mother has not died, if it is the case that she no longer has an active involvement in the appellant's life, the sponsor may nevertheless still have sole parental responsibility. In other words, the presumption that there would be joint parental responsibility might not apply even where the appellant's mother is alive.

18. I also took into account that Judge Davies had not sought previously to criticise the sponsor's general credibility. There is evidence of, and I accept, the sponsor's visits to Ghana in 2016 and more recently in 2019, as well as evidence of financial support; and the correspondence from the school is supportive of a caring and loving father who was obviously interested in the welfare of his daughter.

19. Nevertheless, I accepted the power of Mr Melvin's submissions that this was a case where there was crucially missing evidence that would have been obviously available, notwithstanding any limited financial means and which was not produced, and that the evidence that was produced included important admissions. For example, in the letter addressed 'to whom it may concern' from the appellant's school, already referred to at [20], whilst it confirmed the sponsor's involvement with the appellant, it did not confirm that no one else, including the appellant's mother had involvement whatsoever with the appellant or involvement in her welfare. Had this been the case, and in particular where the letter was obviously obtained to assist the appellant, (as to which I make no criticism), it would have been an obvious statement of support for that school to have made, bearing in mind the sponsor's claim that he had sole parental responsibility for the appellant. This absence was striking when the appellant's legal representatives would be aware that the question of sole parental relationship was one of the three central issues in the First-tier Tribunal and indeed the sole issue before this Tribunal.

20. In terms of the important missing evidence, there was no statement either from R M or E B or a more detailed witness statement from F K. Whilst I was conscious that there was a letter of support that confirmed the living

arrangements as of April 2018 that had been referred to at [25] by Judge Davies in the decision, first of all I was not provided with a copy of that letter, and second, Judge Davies did not suggest, in the description of the letter, that it corroborated sole parental responsibility, for example the appellant's mother had no contact, merely a suggestion that in that case F K had day-to-day care for the appellant.

21. The more detailed factual analysis of whether the sponsor took all necessary decisions in the appellant's life was therefore unsupported by any evidence from those three key actors. While it is suggested that the sponsor was not able to obtain a statement from the appellant's aunt because of a lack of financial means, paying testament to the consistent way in which the sponsor has sought to support the appellant in pursuing this litigation, I do not regard it as credible that even with limited means he would not have sought to have obtained some sort of notarised document, for R M, whom he described as being illiterate. While there is no evidential requirement of corroboration, where, as here, there is an absence of readily available evidence from the three witnesses other than the sponsor, I drew significant adverse credibility inferences from the failure to provide this evidence.

22. I also considered the consistency with which the sponsor pursued this litigation, and what otherwise would have been his motivation for doing so, if he did not have sole parental responsibility. That question is answered by the finding that the sponsor obviously deeply cares for his daughter, but that of course may exist regardless of whether he has sole parental responsibility or shares it with others. The fact that he has been willing to pursue that in terms of his litigation is not one to be criticised or taken lightly, but is not nevertheless one that adequately explains the absence of evidence, even on the standard of proof only being the balance of probabilities. Given the real limitations in the evidence and my previous concerns about the reliability of the sponsor's assertions about the death of the appellant's mother, I find that the sponsor does not have sole parental responsibility for the appellant and so does not meet paragraph 297(i)(e).

23. That is not an end of the matter, as I needed to consider the appellant's appeal through the wider lens of article 8. I find that there is undoubtedly a family life between the sponsor and his minor daughter, the appellant; and that the refusal of entry clearance undoubtedly interferes with the appellant's rights under article 8, noting that she remains a minor and also noting her best interests under Section 55 of the Borders, Citizenship and Immigration Act 2009.

24. I have to consider the question of the proportionality of the respondent's decision. On the one hand, as I have indicated there is a genuine loving family relationship in this case. There has been consistent involvement between the appellant and the sponsor over a number of years. On the other hand, the fact remains that the refusal was in accordance with the Immigration Rules. There is also the fact that the sponsor has been able to retain regular contact and develop the family relationship that he has done over the years. However, one of the weightiest factors in the

consideration is the fact that, setting aside the issue of not complying with the Immigration Rules where, as here, I am not satisfied that there is sole parental responsibility, it follows that there is someone in Ghana, either R M or the appellant's mother (most likely) who continues to share parental responsibility for the appellant with the sponsor, and in the circumstances it cannot be said that it is in the best interests of the appellant to be separated from the person or people in Ghana with whom parental responsibility has been shared for the majority, if not all of, her life in Ghana. When considering the weighty best interests of the appellant, I do not start with the presumption that it is in her best interests to travel to the UK to be with her father, however loving and genuine that relationship is. Instead, this is a case where the facts are more complex and in fact the status quo would have a significant weighty factor against the appellant's appeal. In the balance sheet analysis and taking into account those circumstances and the considerations under section 117B of the 2002 Act, even if it is the case that the appellant would not be a significant burden on the UK taxpayer and even if her English is of sufficient proficiency, nevertheless I concluded that the respondent's decision was a proportionate decision, noting that the status quo was a very weighty consideration; and that the decision did not breach the appellant's rights under article 8.

Conclusions

25. On the facts established in this appeal, there are no grounds for believing that the refusal of entry clearance would result in a breach of the appellant's rights under article 8 of the ECHR.

Decision

26. I remake the decision by dismissing the appellant's appeal on human rights grounds.

Signed: J Keith

Upper Tribunal Judge Keith

Dated: **30 October 2019**

TO THE RESPONDENT
FEE AWARD

The appeal has failed and so there can be no fee award.

Signed: J Keith

Upper Tribunal Judge Keith

Dated: **30 October 2019**

ANNEX: ERROR OF LAW DECISION

Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: HU/13273/2018**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 11 July 2019 (given orally)	.....

Before

UPPER TRIBUNAL JUDGE KEITH

Between

'GAD'
(ANONYMITY DIRECTION MADE)

Appellant

and

THE ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr O Ogunnowo, representative
For the Respondent: Mr A Melvin, Senior Presenting Officer

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

On the basis that the appellant is a minor unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

DECISION AND REASONS

27. This is an appeal by the appellant against the decision of First-tier Tribunal Judge M Davies (the 'FtT') promulgated on 21 March 2019, by which he dismissed her appeal based on her human rights, against the respondent's refusal on 5 April 2018 of entry clearance, to join her father, a British national, (the 'sponsor'), in the United Kingdom. ('UK').

28. In essence, the appellant's claims involved the following issues: her biological relationship to the sponsor; whether the appellant's mother was dead, so that the appellant met the requirements of paragraph 297(i)(d) of the Immigration Rules; or alternatively, whether the sponsor has sole parental responsibility for the purposes of paragraph 297(i)(e), or whether there were considerations for the purposes of paragraph 297(i)(f) making the appellant's exclusion from the UK undesirable and that suitable arrangements had been made for the appellant's care.

The FtT's decision

29. The FtT found that the appellant and the sponsor were related as claimed, but not that the sponsor had sole parental responsibility for the appellant, noting that the appellant had been brought up by her mother, then aunt; and now the sponsor's best friend. The FtT was not impressed that the evidence was sufficient to show that the sponsor took day-to-day decisions regarding the appellant's schooling and future plans, albeit accepting that the sponsor was a credible witness.

The Grounds of Appeal and Grant of Permission

30. The appellant lodged grounds of appeal which are that the FtT failed to make any finding on whether the appellant's mother had died, so that the appellant would meet the requirements of paragraph 297(i)(d) of the Immigration Rules; failed to explain why, if he found the sponsor to be credible, the FtT had concluded that the sponsor did not have sole parental responsibility and misdirected himself on the fact of the appellant's cohabitation with people other than the sponsor; and there were insufficient reasons for concluding that the appellant's exclusion from the UK was not undesirable.

31. First-tier Tribunal Judge Beach granted permission on 5 June 2019. Permission was not limited in its scope.

The hearing before me

32. The appellant applied on 17 June 2019 to this Tribunal, albeit Mr Melvin, the Presenting Officer, had not received a copy of the application pursuant to Rule 15(2)(a) of the 2008 Rules, to admit a photocopy of the death certificate of the appellant's mother. The explanation for previous non-disclosure was said to be a family feud, as a result of which the appellant's representatives had not managed to previously obtain it. Mr Melvin did not object to the admission of the evidence, although he challenged the

reliability of the document, noting that it was not a certified copy. In response to that challenge, Mr Ogunnowo then presented the original, or a document purporting to be the original, on the day of the hearing. When asked why a certified copy had not previously been provided to the respondent, Mr Ogunnowo explained that he and the appellant were based some distance away from one another and so Mr Ogunnowo had been unable to certify a copy. While I admitted the original document, once again, its authenticity was not accepted.

The law

33. Paragraph 297 of the Immigration Rules states:

"Requirements for indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

297. The requirements to be met by a person seeking indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom are that he:

(i) is seeking leave to enter to accompany or join a parent, parents or a relative in one of the following circumstances:

(a) both parents are present and settled in the United Kingdom; or

(b) both parents are being admitted on the same occasion for settlement; or

(c) one parent is present and settled in the United Kingdom and the other is being admitted on the same occasion for settlement; or

(d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is dead; or

(e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing; or

(f) one parent or a relative is present and settled in the United Kingdom or being admitted on the same occasion for settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and

(ii) is under the age of 18; and

(iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and

(iv) can, and will, be accommodated adequately by the parent, parents or relative the child is seeking to join without recourse to

public funds in accommodation which the parent, parents or relative the child is seeking to join, own or occupy exclusively

(v) can, and will, be maintained adequately by the parent, parents, or relative the child is seeking to join, without recourse to public funds; and

(vi) holds a valid United Kingdom entry clearance for entry in this capacity; and

(vii) does not fall for refusal under the general grounds for refusal."

Decision of Error of Law in relation to Paragraph 297(i)(d)

34. In the first ground, I conclude that there was an error of law in the FtT's decision, but not one such that it should be set aside. My reasons for the conclusion are as follows.

35. As accepted by Mr Melvin, the issue of whether the appellant's mother had passed away was a live issue before the FtT, on which it had made no finding. However, that needed to be considered in the context of the evidence before the FtT. The respondent's response under Rule 24 of the 2008 Rules identified the significant concerns about the evidence before the FtT. A police report dated 7 January 2015 singled out the appellant's mother by name, whose date of birth was said to be 9 September 1975 and four other unnamed people having died, when it was unclear why the appellant's mother was singled out in the report and the four other victims of the accident were not named.

36. It was also notable that the date of birth of the appellant's mother was inconsistent when comparing the police report, with the application for entry clearance, which stated it as 9 September 1976. There was a further concern when referring to an earlier application for entry clearance of 31 January 2007, which in turn had referred to the appellant's mother by a different name. In essence, on the basis of just three documents alone, there are inconsistencies as to both the dates of birth and also the name of the appellant's mother. I am therefore not satisfied as to the reliability of the documents, including the document said to be the original death certificate, but which the appellant had not produced prior to this hearing and in circumstances where I am not satisfied as to the explanation for its late production. Notwithstanding the FtT's failure to make a finding on whether the appellant's mother has passed away, I am not satisfied that, on the basis of the lack of reliability of the evidence before it, and me, it is appropriate to set aside the FtT's decision, when there was never sufficiently reliable evidence before it such that an appeal was ever likely to succeed. The appellant's appeal on this ground is therefore dismissed.

Decision of Error of Law in relation to Paragraph 297(i)(f)

37. The FtT considered, at paragraph [27] of his decision, the issue of whether the appellant's exclusion was undesirable, concluding that while she no longer lived with a family member (she lives with a friend of the sponsor) there was no evidence that there were serious and compelling family or

other considerations which made the appellant's exclusion from the UK undesirable.

38. Mr Ogunnowo accepted that there was no assertion of destitution or danger to the appellant and I considered specifically the authority of **Mundeba (Section 55 and paragraph 297(i)(f)) Democratic Republic of Congo [2013] UKUT 88 (IAC)**. The respondent had, in reaching its decision, noted that consideration of the issue of exclusion involved an assessment of what the appellant's welfare and best interests require. Family considerations, in turn, require an evaluation a child's welfare, including emotional needs. Other considerations come into play where there are other aspects of a child's life that are serious and compelling, for example where an applicant is living in an unacceptable social and economic environment. The respondent noted that the focus needs to be on the circumstances of a child in light of his or her age, social background and developmental history and will involve enquiries as to whether there is evidence of neglect or abuse; there are needs that should be catered for; and there are stable arrangements for the child's physical care. The assessment involves consideration as to whether the combination of circumstances are sufficiently serious and compelling to require admission. Mr Melvin asserts that, in the context of no assertion of destitution or danger to the appellant, who is currently enrolled during the school year on an IT course, and who stays during the holidays with a close friend of the sponsor's, that her exclusion is not undesirable; and the FtT was entitled to find as such.

39. The appellant was born on 10 February 2003 and is consequently now aged 16. She was 16 at the date of the FtT's decision. There are no reasons put for her exclusion being undesirable, except for the understandable assertion that she is no longer living with a blood relative, but being looked after on a day-to-day basis, outside school terms, with a close friend of the sponsor; and the sponsor would prefer to look after her. Whilst I make no criticism whatsoever of the entirely understandable desire that they should live together, that does not in my view meet the test set out in **Mundeba**, namely evidence of neglect or abuse, unmet needs or around such equivalent situations such as unstable arrangements. The arrangements themselves appear to be stable and in reality what is presented is a desire for family reunion after a period of ten years. Nevertheless, that does not make the appellant's exclusion undesirable in the circumstances and there was no error of law in the FtT's decision, which is dismissed.

Decision of Error of Law in relation to Paragraph 297(i)(e)

40. I turn, however, to the question of sole parental responsibility for the purposes of paragraph 297(i)(e). The challenge in relation to this was the sufficiency of reasoning. The FtT had concluded, at paragraph [26] of his decision, that while the sponsor may well make financial contributions towards the appellant's upkeep, this did not indicate sole responsibility. Mr Melvin urged me to find that this reasoning was sufficient, whereas the grounds assert that having found the sponsor to be credible, it was unclear

why the FtT concluded that the sponsor did not exercise sole parental responsibility, as he claimed.

41. I conclude that on this ground only, the FtT's decision does contain an error of law, which requires that part of the decision to be remade, but any remaking should be in the context of it not being found that the appellant's mother has died. The reasons for my conclusions are as follows. On the one hand, at paragraph [78] of the FtT's decision, he accepts the sponsor was a credible witness, but on the other, then concludes that the sponsor does not have sole parental responsibility for the appellant. The FtT's reasons are that the sponsor did not have sole parental responsibility for the appellant when she was living with her grandmother or aunt; and taking into account that she is now living with the sponsor's friend, the extent of responsibility will not have changed. Whilst the FtT accepted that the sponsor may return to Ghana on an annual basis to see the appellant, that, along with financial support, does not indicate that he has sole responsibility. The FtT further found that 'day-to-day' decisions on the appellant's upbringing are taken by the sponsor's friend, with no evidence to indicate that the sponsor makes day-to-day decisions regarding the appellant's schooling and future plans.

42. However, the above rationale of how the FtT could conclude that sole parental responsibility has not been shown, i.e. in referring to the sponsor's visits and financial support, but with 'day-to-day' decisions being taken by the sponsor's friend, does not take into account the authority of **TD (Paragraph 297(i)(e): "sole responsibility") Yemen [2006] UKAIT 00409.** I am not satisfied that the FtT in this case has adequately considered that the sponsor could have sole parental responsibility while his friend looks after the appellant on a day-to-day basis. That element of the FtT's decision is inadequately reasoned, and so contains an error in law, which is material.

Notice of Decision

43. The FtT's decision in relation to the grounds of appeal under paragraphs 297(i)(d) and_(f) does not contain an error of law such that the decision should be set aside and the FtT's findings are preserved in respect of those grounds. The decision of the FtT in relation to Paragraph 297(i)(e), namely the question of sole parental responsibility, does contain an error of law, such that I set aside its findings on that issue, which need to be remade.

44. The remaking of the decision on paragraph 297(i)(e) can be properly remade by the Upper Tribunal, in light of the narrowness of the issue and a hearing in order to remake the decision will be listed accordingly.

Signed Date 23 July 2019

J Keith
Upper Tribunal Judge Keith