Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/19793/2016
HU/19801/2016, HU/19798/2016
HU/19804/2016, HU/19805/2016

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 3rd January 2019	**On 11th February 2019**

Before

UPPER TRIBUNAL JUDGE KING TD

Between

ISRAEL [A] (FIRST APPELLANT)
OLADUNNI [A] (SECOND APPELLANT)
[M A] (THIRD APPELLANT)
[I A] (FOURTH APPELLANT)
[M A] (FIFTH APPELLANT)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellants: Mr E Waheed of Counsel, instructed by E H Dawson Solicitors
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants are Nigerian citizens, being the father, mother and three children. The first appellant entered the United Kingdom clandestinely in 2002 and has remained unlawfully ever since. The second appellant entered the United Kingdom

in 2006 with leave, but as from June 2007 she has also remained without leave. The third appellant was born on 21st April 2010; the fourth on 10th July 2012 and the fifth on 10th April 2016.

2. The appellants sought leave to remain on the basis of family and private life, which application was refused by the respondent in a decision of 29th July 2016.

3. They sought to appeal against that decision, which appeal came before First-tier Tribunal Judge Davidson at the hearing on 11th January 2018. In a decision promulgated on 23rd January 2018 the appeal was dismissed.

4. The appellants sought to challenge that decision and leave to do so was granted on one particular basis, namely that there had been inadequate consideration of the situation of the third appellant who is now a qualified child.

5. The matter came before me for hearing on 2nd August 2018 to determine that issue.

6. It is entirely clear from the generality of the evidence, as was presented before the First-tier Tribunal Judge, that the first and second appellants' immigration history is a bad one. Applications had subsequently been made by the parents but had been dismissed. They continued to reside in the United Kingdom when the children were born.

7. A number of matters were raised in the various documents as presented in terms of the health of the first and second appellants and of the difficulties which it was claimed the family would face if returned. Such concerns were found by the First-tier Tribunal Judge to be general in nature and had little substance in terms of detail or evidence.

8. For example the first appellant claimed that he lived in fear of his uncles in Nigeria, that he has no family there and that his brother and sister had been killed. He fears that FGM will be inflicted upon his daughter, the third appellant. There is no indication that any application for asylum has been made in relation to those matters.

9. It is said that the appellants could not live in northern Nigeria because of Boko Haram. Little reason is given why they could not live in the south or in one of the cities. It was claimed that there were no jobs, that government schools are on strike and that there was no education and that life generally in Nigeria is unstable and precarious. The Judge noted in the course of the determination that there was little detail provided in that respect. Indeed it was noted, particularly of the second appellant, that she had made no inquiries about schooling in Nigeria.

10. It was apparent from the determination as a whole that proper consideration has been given to the situation of the first, second, fourth and fifth appellants.

11. The concern, however, and indeed the subject of challenge in the grant of permission, relates to the approach taken to the third appellant, who at the time of the hearing, had over seven years' residency in the United Kingdom and was, for the purposes of Section 117B of the 2002 Act, a qualifying child.

12. I found that there was inadequate consideration as to her situation and circumstances nor clear reasons given why it would be "reasonable, for her to return with her family to Nigeria".

13. It is upon that narrow basis that I found there to be an error of law such that the decision is to be set aside to be remade.

14. In terms of the ambit of any further consideration I set out the following in my determination of 9th August 2018 in these terms:-

> "The first relates to the ambit of any consideration of the decision. For my part I find little reason to depart from the evidence presented to the First-tier Tribunal and the conclusions drawn in relation to the first, second, fourth and fifth appellants. Clearly whether or not they are returned to Nigeria as a family depends very much on the outcome of the consideration in relation to the third appellant. In those circumstances it seems to me that the focus of the consideration should be in relation to the third appellant. That does not necessarily preclude further evidence as to country conditions and availability of treatment as it is her best interests and the reasonableness of her return that is the focus of consideration.
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> The second consideration being whether the matter be remitted to the First-tier Tribunal or retained in the Upper Tribunal."

15. Not having received any response to such matters, I determined, in the decision of 9th November 2018, that the matter would be retained in the Upper Tribunal and that the scope of consideration would be limited as indicated. Those acting on behalf of the appellant subsequently submitted a letter of 4th December 2018 in which it was contended that a letter had been written in response to my original directions on 17th August 2018. There is little record of it having been received in the file but I note the copy that has been enclosed. Significantly for the purposes of the hearing it is said "we confirm that the appellant accepts the ambit of reconsideration in the decision of 9th August 2018".

16. There was a request that the matter be remitted to the First-tier Tribunal for rehearing but by that time the hearing in the Upper Tribunal had been set. Mr Waheed made no application to change the venue in his submissions when the matter came for rehearing before me on 3rd January 2019.

17. Given the limited scope of consideration in this matter I do not repeat what was said for and on behalf of the first, second, fourth and fifth appellants before Judge Davidson. I see no reason to depart from the findings which were made by that

Judge in the decision. As that decision was set aside I indicate that I formally adopt what was presented in relation to those appellants as part of this my decision.

18. The focus being of course upon [MA], the third appellant.

19. I was helpfully presented with three bundles of evidence at the hearing which have been marked respectively bundles A, B and C. Certain of the bundles were before the First-tier Tribunal, but bundle C contains new evidence since the hearing.

20. The first appellant Mr [A] gave evidence. He first adopted his witness statement of 10th November 2017 to be found in bundle A at page 17 onwards.

21. It is his claim that he fled Nigeria in 1995 because his uncles had threatened to kill him if he stayed in Nigeria because of a land dispute. They killed his brother. He stayed in South Africa until 2001, then in other countries, arriving in the United Kingdom in June 2002.

22. He sets out detail of his health, in particular that he is a noninsulin dependent diabetic with other medical conditions and sets out the treatment that he receives. He also said that his wife suffers from a number of conditions which are set out.

23. In terms of [MA], the statement indicates that she is settled at school, her home, her church and her community. At the time of the witness statement she was in year three at the [~] Primary School in Abbey Wood. She loves attending school, doing her homework and playing games in school. She is part of the gymnastic club in school and she attends meetings every week on either Tuesday or Thursday after school. When she finished her operation on 10th August 2015 to repair the hole in her heart she said she could not wait to return to school.

24. Significantly the witness statement made reference to a letter of 2nd November 2017 from the [~] Primary School confirming that [MA] and [IA] attend the school.

25. The statement continues that [MA] loves to attend children's Bible school in church every Sunday morning and on Wednesday and Friday evenings she partakes fully in the singing and all activities organised for the children. She loves to read her children's Bible and to learn about Bible stories at church where she is taught more of her faith.

26. Given her complex medical condition she continues to be monitored by cardiac specialists on a regular appointment basis.

27. She loves to read, write, draw and watch television. It is said that she is deeply integrated in the UK community and that removing her from the UK will be inflicting severe harm on her and causing mental harm.

28. The statement concludes with the expression by the first appellant that Nigeria is unsafe. There is no parents or siblings in Nigeria and that his wife has no family in Nigeria. There are no properties in Nigeria and nowhere to stay.

29. The first appellant said in his oral evidence that his daughter requires two sets of drugs every day, namely furosemide and spironolactone. She has to take the drugs in the morning before school and needs to rest after taking them and also on her return from school and she needs also to rest after taking them. She has regular check-ups with the hospital and the next is expected in February 2019. It is said that [MA] is very weak. Although she liked dancing she has not been able to do very much because if she falls over it would be potentially fatal for her. He stressed that she has scar tissue from the chest to the stomach and that stops her moving very much. Largely therefore she is confined to the home except for visits to the park and unable to undertake any long journey particularly one to Nigeria.

30. Before leaving Nigeria the first appellant worked as a businessman in a hardware shop in Lagos state for some eight years. He said his father owned cocoa land in Oyo state which was one and a half hours' drive away. There was a dispute between his father and the family over the land. The father, brother and sister were killed by the uncles in 1983. He lost contact with his only remaining brother whom he had last seen in 1998. He has a friend who lives near to the plantation who says that the uncles have developed the property well and are wealthy. He himself fears returning to Lagos because the uncles will kill him because they will fear that he will want to take the land back from them.

31. In terms of his wife's family he believes that she has none, otherwise he would have heard her speaking of them or to them.

32. He continued to stress that whilst Nigeria is unsafe that there was no place that he could go to in Nigeria that would be safe or would be able to provide proper medical care for his daughter.

33. In terms of the medical evidence reliance is placed upon the report of the general practitioner, 2nd August 2017 confirming that [MA] is a registered patient at the surgery. She continues to have a leaking valve which will require lifelong cardio follow up as the cardiologist feels her disease may progress and require further surgical intervention in the future. The view of the doctor that it was imperative for her care that she should remain in the United Kingdom as the level of care required would be unavailable in a third world country.

34. The doctor wrote a further letter of 12th July 2018 in precisely the same terms.

35. There is a report from Guy's and St Thomas's NHS dated 30th September 2016 written to the general practitioner.

36. Significantly the diagnosis is partial atrioventricular septal defect with a repair of partial atrioventricular septal defect in August 2016. She was reviewed and had a reasonably good exercise tolerance. When seen on 30th September 2016 she was well looking and her heart sounds were normal. The specialist said he was pleased with her progress

> "I have asked parents to stop her furosemid and spironolactone and I would like to see her again for further follow up in eighteen months' time. It is very important that she continues to have follow up as the left AV valve regurgitation could well progress over time and she may require further intervention in the years to come".

37. There is no up-to-date report from the doctor notwithstanding the indication which I had previously given that an up-to-date report would be important.

38. Mr Waheed relies heavily upon the medical evidence set out in the respondent's country information on Nigeria of May 2015 and in particular the overview of the healthcare system in Nigeria as set out in section 2.2 thereof.

39. In summary it is said that the healthcare and general living conditions in Nigeria are poor. Conflict and communal violence have forced hundreds of thousands of people to flee their homes and access to quality care is difficult, with many primary healthcare centres lacking skill and motivated staff. It said despite the collaborative efforts of both Nigerian government, donor agencies and NGOs to provide an efficient and effective healthcare delivery in Nigeria, confronting problems render these efforts much less than desired. These problems include emerging and re-emerging health problems, such as HIV/AIDS pandemic, inadequate payment of health workers' salaries, poor quality of care, brain drain. It was also said that there is insufficient budget allocation and lack of strategic plan and preparedness for epidemics and pandemics.

40. In terms of all the recent evidence that is contained in bundle C, a report speaking of the murder of a student, an article healthcare in Nigeria speaks of diarrhoea being a problem befalling westerners and that the quality of healthcare institutions is generally poor. The article speaks of the brain drain of doctors and staff.

41. There is an article indicating that Nigeria has the largest number of children out of school. It seemed to be from a BBC News' article, speaking of government funded schools lacking funding. There is an article that the President came to the United Kingdom for health checks. It submitted that that is relevant to show the poor quality of healthcare available in Nigeria, There are articles about rape, lack of electricity and trafficking.

42. There is an article of 19th June 2018 from the Guardian speaking of a young family in Edo state requiring funds to pay for surgery to their child with a hole in the heart, and how difficult it is to find that funding. There is another article about someone who requires surgery for a hole in the heart in India at great expense. It was

submitted there was also an article 14th October 2018 speaking of 13,200,000 Nigerian children not at school. Those reports are generic in nature.

43. In terms of the respondent's position and evidence relied upon, I am asked to by Mr Melvin to have regard to the detail that is set out in the refusal letter under challenge, namely that of 29th July 2016.

44. In terms of the treatment available to [MA], reliance is placed upon the Country of Origin Information Service Report for Nigeria May 2015, in particular sections 2.7 and 2.8 thereof. It said that outpatient treatment and follow up by a cardiologist is available, ECG and ultrasound scans are also available in most secondary and tertiary centres, outpatient treatment and follow up by a cardio surgeon. It said that the medication which the [MA] receives is available in Nigeria.

45. In terms of treatment for diabetes that is also available and set out. It considered therefore that the appropriate medical care and treatment is available in Nigeria.

46. For the sake of completeness the refusal decision considered also the health of the first and second appellant and concluded that treatment was readily available for them also in Nigeria.

47. The parties made their submissions. Mr Melvin, on behalf of the respondent, relied upon the written submissions he has presented. He contends that the first appellant has exaggerated both the difficulties in relocation generally and the health needs of his daughter in particular. I was asked to find that he lacked credibility and that treatment was available for [MA] and that it was reasonable in all the circumstances for her to return with her family.

48. Mr Waheed relies heavily upon the medical evidence that he has presented, contending that it would not be in the best interests of [MA] or reasonable to expect her with her condition to return to Nigeria even with her family.

49. The concept of reasonableness is one that is reflected in a number of decisions. The most particular in **EV (Philippines) EWCA Civ [2014] 874**, **MA (Pakistan) EWCA Civ [2016] 705**, **AM Pakistan EC EWCA Civ [2017] 180**, **MT and ET (child's best interest; ex tempore pilot) UKUT 00088 [2018]** and more recently in **KO (Nigeria) UKSC [2018] 53**.

50. It has been noted in relation to the decision of **KO** that three of the appeals involved linked cases as to the treatment of "qualifying children" and their parents under the statutory regime contained in part 5A of the Nationality, Immigration and Asylum Act 2002.

51. In particular Section 117B(6) provides

"In the case of a person who is not liable to deportation, the public interest does not require the person's removal where -

(a) the person has a genuine and subsisting parental relationship with a qualifying child, and

(b) it would not be reasonable to expect the child to leave the United Kingdom".

52. A qualifying child being defined as one who has lived in the United Kingdom for a continuous period of seven years or more.

53. In the course of the judgment Lord Carnwath considered in some detail the development of the jurisprudence and policy in relation to the qualifying child.

54. At paragraph 11 of the judgment set out as follows, the most recent version of the IDI (22nd February 2018), no doubt taking account of the Court of Appeal decisions to which I shall refer below, includes an additional paragraph which more closely reflects the Secretary of State's submissions in the present case:

> "The consideration of the child's best interests must not be affected by the conduct or immigration history of the parents or primary carer, but these will be relevant to the assessment of the public interests, including in maintaining effective immigration control; whether this outweighs the child's best interests; and whether, in the round, it is reasonable to expect the child to leave the UK (family migration: Appendix FM Section 1.0b. Family life (as a partner or parent) and private life: ten year routes page 76)".

55. Such was considered by Lord Carnwath in the light of attempts by a parliament to clarify the application of Article 8 and in particular the case of **Agyarko [2017] UKSC 11** and part 5A of the 2002 Act.

56. The assessment continues at paragraphs 18 and 19 in these terms:-

> "18. On the other hand, as the IDI guidance acknowledges, it seems to me inevitably relevant in both contexts to consider where the parents, apart from the relevant provision, are expected to be, since it will normally be reasonable for the child to be with them. To that extent the record of the parents may become indirectly material, if it leads to their ceasing to have a right to remain here, and having to leave. It is only if, even on that hypothesis, it would not be reasonable for the child to leave that the provision may give the parents a right to remain.
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> 19. He noted (paragraph 21) that Lewison LJ had made a similar point in considering the 'best interests' of the children in the context of Section 55 of the Borders, Citizenship and Immigration Act 2009 in **EV (Philippines) v Secretary of State for the Home Department [2014] EWCA Civ 874** paragraph 58
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> '58. In my judgment, therefore, the assessment of the best interests of the children must be made on the basis that the facts are as they are in the real world. If one parent has no right to remain,

> but the other parent does, that is the background against which the assessment is conducted. If neither parent has a right to remain, then that is the background against which the assessment is conducted. Thus the ultimate question will be: is it reasonable to expect the child to follow the parent with no right to remain in the country of origin'".

The point was well expressed by Lord Boyd in **SA (Bangladesh) v Secretary of State for the Home Department [2017] SLT 1247, [2017] Scot CSCSOH 117**:

> "22. In my opinion before one embarks on an assessment of whether it is reasonable to expect the child to leave the UK one has to address the question, 'why would the child be expected to leave the United Kingdom? In a case such as this there can only be one answer: 'because the parents have no right to remain in the UK'. To approach the question any other way strips away the context in which the assessment of reasonableness is being made".

To the extent that Elias LJ may have suggested otherwise in **MA (Pakistan)**, paragraph 40, I would respectfully disagree. There is nothing in the section to suggest that "reasonableness" is to be considered otherwise than in the real world in which the children find themselves".

57. In terms of paragraph 58 of **EV (Philippines)** Mr Melvin and Mr Waheed were in agreement that that represented the appropriate approach to take in the matter of reasonableness.

58. In terms of assessing the best interests of [MA] and whether, notwithstanding such interests or because of them, it was reasonable for her to return to Nigeria with her parents it is necessary to consider her health, cultural integration, links with the wider community and her school and to what extent she has developed private life independent of her family.

59. In one sense a proper determination as to her health is difficult because of the lack of up-to-date medical evidence, which ought reasonably to have been produced, given the issues which have been highlighted.

60. I find that the oral evidence of the first appellant before me stands in sharp contrast with that which he set out in the witness statement to which reference has been made. He seeks to present in his oral evidence a child who is crippled by the nature of her scarring, such that mobility is restricted; who is dependent upon medication and who is weak and infirm and needs much rest and is unable to undergo any physical activities by reason of that condition. Such stands in sharp contrast with the happy active young girl who is part of a domestics club in the school, who attends meetings after school, partakes fully in the scene all activities organised by the children as attested to by the first appellant in his statement of 10th November 2017.

61. It is reasonably to be expected that if the condition of [MA] had deteriorated to the extent as now claimed from that set out by her father in November 2017, she would have been referred to the consultant and a further assessment had been made.

62. I find that the first appellant is motivated to put the worst case upon the facts for his daughter and indeed for return to Nigeria generally in order to prevent such a return. I find that he lacks credibility in what he has to say in that regard.

63. Reliance was placed upon the statement from the consultant who has care of [MA] as set out in the report of 30th September 2016. The report is reasonably optimistic as to the health of [MA] and significantly records that the parents were asked to stop her furosemide and spironolactone. Such calls into question the credibility of the evidence from the father that she needs that medication to continue. There is no further medical report to indicate that those drugs are now required.

64. Taking the medical report, together with paragraphs 12 and 13 of the witness statement, it seems to me that I can safely find that [MA] is a happy and active child, enjoys school, has friends and, contrary to what her father seems to say, involved in church as well as school.

65. That of course bears sharply on the issue as to what intervention she requires whether by drugs, supervision or follow up. The report of the consultant of 30th September 2016 spoke of a further checkup in eighteen months' time from then would have been around February or March 2018. If there had been any significant deterioration in her condition it reasonable to expect that there would have been a report to the general practitioner from the consultant on that matter. It is far from clear whether [MA] was taken to the hospital to see the consultant at that time or not.

66. Much reliance is placed upon the respondent's country information on Nigeria of May 2015. Mr Waheed relies upon paragraph 2.2, whereas Mr Melvin relies upon paragraph 2.7 of the same report.

67. As Mr Melvin submits, Nigeria is a country of contrast with particular problems in a number of areas which has led to the displacement of many people. There is little to suggest, however, that adequate medical treatment would not be available in the larger cities, such as Lagos, a city from which the first appellant comes from and has lived for some 31 years before coming to the United Kingdom and so it is reasonably assumed would be an area with which he was familiar. It is perhaps surprising that there is a marked absence of any more official up-to-date material that is relied upon.

68. Generally I do not find the additional information contained in bundle C to be of great assistance in this matter. That a number of families may find it difficult to raise funds for hole in the heart operations is of limited application, particularly to someone such as [MA] who may require supervision, rather than surgery. Two examples of difficulties does not indicate to any degree of reliability systemic failure

on the part of the medical services. The article concerning healthcare in Nigeria from the United Nations is more designed to alert the visitor to what is required to counter common disease, rather than focusing upon the facilities available to those living in Nigeria. It is said that hygiene conditions are problematic, especially outside the large cities. That says very little because it is to be anticipated that any return to Nigeria would be to a large city such as Lagos, rather than the countryside. The brain-drain of doctors and medical staff may be a concern but does not deal with what is available in terms of medical care. That the president needs to have treatment begs the question as to what treatment he needs and why it is that he came to the United Kingdom.

69. Reliance is placed at page 25 of bundle C upon an e-mail of 11th February 2007, which speaks of a child who had problems with her heart following birth. She was taken to Igbobi Orthopaedic Hospital in Lagos and later met a cardiologist at the Lagos State University Teaching Hospital. The tests revealed the hole in the heart. Thereafter the problems arose as to the payment for the treatment. What is revealed certainly in that e-mail, if correct, is that there were two hospitals with staff, the cardiologists in particular in Lagos.

70. Having considered the medical evidence as a whole I find that the evidence presented on behalf of the respondent is more reliable and specific to the issue and that there would be access to hospital and treatment if need be, particularly in the big cities, particularly in Lagos.

71. So far as the health of [MA] is concerned I find nothing to indicate that she is otherwise than a happy and outgoing child, enjoys school and school activities and being with her siblings and family. I do not find that she is in the poor state of health as described by her father nor that she is in any immediate need of significant medical intervention or treatment.

72. I find therefore that it would not be detrimental to her health or wellbeing were she to accompany her family to Nigeria, particularly to Lagos.

73. In terms of her best interests I recognise the desirability of stability within the family context. There is nothing to indicate that there is any wider family or extended family context in the UK to which she has any emotional needs or relationships. Apart from the issue of her health there seemed to be little to indicate that she would be deprived of anything significant in terms of her private life were she to accompany her siblings and family to Nigeria. There is little indicate she has developed interests and hobbies that could not otherwise be found elsewhere or relationships that could not otherwise be enjoyed elsewhere.

74. I find on the evidence that she is very much focused upon the family and has not yet developed any degree of independence or social life apart from them. As the first appellant indicated, either he or his wife takes the appellant to and from school,

together with [IA] who is also in that school. I do not find that [MA] would suffer any psychological difficulties or emotional deprivation in remaining with her family but elsewhere.

75. In determining reasonableness of course it is important to consider the circumstances to which she would be going were she to accompany her family to Nigeria. In that connection I find that her father is very familiar with the area of Lagos having worked there. He worked as a cleaner in the UK for a number of years before being prevented from doing so by his immigration status. The second appellant had also worked as a cleaner. I find therefore that the family as a whole could establish a normal family life in Lagos in particular and find work.

76. In terms of the absence of any family members in Nigeria the First-tier Tribunal Judge found that the evidence given by the first and second appellants lacked credibility in that regard. I do not find the first appellant to be credible in his contention that he is at risk from his uncles. He has had many years to present an asylum claim, which he has not and he had produced no documentation or any other matters to substantiate his claimed fear. What seems to be of significance is that his uncles, and presumably cousins, seem to be doing well in their business, and absent of any ill will towards him no doubt would be in a position to lend support to him and his family. His contention that his wife had no relatives because he would have known about that stands curiously in the evidence, which was recorded from his wife by the First-tier Tribunal Judge, that she had a sister but had lost contact with the sister and that her partner, that is the first appellant, would not know these details as these are not matters which are discussed.

77. It was noted in paragraph 93 of the refusal decision that within the reconsideration request dated 12th October 2010 the first appellant claimed that most of his brothers and sisters emigrated as well to America and Canada years ago but in his Statement of Additional Grounds of 29th February 2016 stated that he only had one sibling and he was killed. It seemed there was now yet another brother. Overall the contradictions serves further to undermine the credibility of any claim of fear upon return.

78. I find to the contrary that there are family members of both sides of the family in Nigeria from whom support could be sought.

79. In terms of the various articles relating to violence, such are isolated incidents as highlighted and do not support the contention that violence is endemic everywhere in Nigeria. The focus of return in common sense is upon the big cities in Nigeria, rather than the north or country areas.

80. In terms of schooling additional material is less than helpful. As I have indicated the e-mail of 25th July 2017 purporting to represent the views of BBC News is that government funded schools in Nigeria have practically collapsed; that is in some

contrast with the article concerning 13,200,000 Nigerian kids out of school. The focus of that article is to suggest that the obvious advantages of education must remain repugnant to many parents. The question is asked in that e-mail "why is it that in spite of the universal basic education programme of the government, school enrolments appears to be on a downward slide. If education is free why are parents withdrawing their children from school". The article suggests that there is indeed a viable education system in place in particular areas of the country, as is contended by the respondent in the submissions made to me.

81. Thus although the best interests of [MA] may be said to lie in her remaining in her community and with her school, the same could be said for her siblings. That she is a qualified child is to be recognised and given the appropriate weight. For the reasons already advanced I do not find that her heart defect is such as to cause any significant difficulties to her were she to live in Nigeria.

82. The reality of the matter in this case is that she remains three years older than her next sibling and that she is focused understandably upon her family. The ultimate question is whether it is reasonable to expect [MA] to follow the parents with no right to remain to the country of origin, has been set in the context of public interest.

83. For all the reasons I find that it is reasonable to expect [MA] to go with her family to Nigeria. Cogent reasons have been given why [MA] should be deprived of the advantages that the status brings. Such reasons lie in the context against which the assessment is conducted. She is an integral part of the family that otherwise has no right to remain. When looking at the features particular to her, as set out above, I find little to indicate that it would be unreasonable for her to return with her parents.

84. In all the circumstances therefore I adopt the findings of the First-tier Tribunal Judge. It is not disproportionate or in breach of their fundamental human rights that the first, second, fourth and fifth appellants be removed to Nigeria. I find in the circumstances it is reasonable also for the third appellant to accompany them, such that all the family as a unit may be removed to Nigeria.

85. In those circumstances the appeal is dismissed.

No anonymity direction is made.

Signed Date 23 Jan 2019

Upper Tribunal Judge King TD