DECISION OF THE UPPER TRIBUNAL
(ADMINISTRATIVE APPEALS CHAMBER)

The DECISION of the Upper Tribunal is to allow the appeal by the Appellant, although not to his material advantage. The decision of the Plymouth First-tier Tribunal dated 23 March 2017 under file reference SC200/15/00725 involves an error of law. The decision of the First-tier Tribunal is set aside.

The Upper Tribunal is able to re-make the First-tier Tribunal's decision. The decision the First-tier Tribunal should have made (which is to all intents and purposes to the same effect) is as follows:

> *"The Appellant's appeal is dismissed.*
>
> *The Respondent's decision of 17 July 2015 is confirmed.*
>
> *The Appellant is not entitled to JSA at the main rate from 26 January 2012 to 16 December 2012 because he has not entered into a valid jobseeker's agreement and nor can he be treated as having entered into one. For the reasons given in this decision, if the Appellant were to comply with the proposed agreement of 17 July 2015 he would satisfy the JSA entitlement conditions of availability for work and actively seeking work (i.e. the conditions mentioned in section 1(2)(a) and (c) of the 1995 Act). Furthermore, it was reasonable to expect the Appellant to have to comply with the proposed agreement."*

This decision is given under section 12(2)(a) and (b)(ii) of the Tribunals, Courts and Enforcement Act 2007.

REASONS FOR DECISION

Introductory: the fundamental issue in this case

1. This fundamental issue in this appeal concerns the reasonableness (or otherwise) of the terms of the claimant's revised jobseeker's agreement.

2. This appeal is a "second time around" case, as the claimant's appeal has already been to the Upper Tribunal once before under another guise. Upper Tribunal Judge Ward decided that earlier appeal, and his decision has been reported as *CH v Secretary of State for Work and Pensions (JSA)* [2015] UKUT 373 (AAC); [2016] AACR 28. I refer to that decision as and where necessary below (and as *CH v SSWP (JSA)*). Given the intimate connection between the two cases, this appeal will be allocated a neutral case number under the rubric of *CH v SSWP (JSA) (No.2)*.

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Introductory: an outline of the background and the Upper Tribunal's decision

3. In summary, the claimant applied for jobseeker's allowance (JSA) back in 2012 but refused to sign a jobseeker's agreement because, he said, it failed to address his disabilities (and for various other reasons). The Secretary of State's decision-maker decided at the time that the claimant was not entitled to either (i) ordinary JSA payments or (ii) JSA hardship payments. The basis for those decisions was the claimant's refusal to sign the jobseeker's agreement. On 24 September 2012 the Plymouth First-tier Tribunal (FTT) dismissed the claimant's appeal. The claimant then appealed to the Upper Tribunal. The proceedings were protracted. For reasons that will become evident, Judge Ward allowed that appeal in *CH v SSWP (JSA)* and remitted the case to the Secretary of State for a fresh determination on the reasonableness (or otherwise) of the jobseeker's agreement. Shortly afterwards, on 17 July 2015, the Secretary of State notified the claimant of the revised terms of the jobseeker's

agreement. The claimant again declined to sign the agreement and lodged a further appeal against that new determination. Following a mandatory reconsideration, on 23 March 2017 a second FTT in Plymouth eventually considered that appeal 'on the papers'. The second appeal to the FTT was also dismissed by the District Tribunal Judge (DTJ) who dealt with the case. Following my grant of limited permission to appeal, the claimant now appeals to the Upper Tribunal against that second FTT decision.

4. For present purposes I can summarise my conclusions as follows. The second FTT's decision involves an error of law. This is because it failed to provide adequate reasons for its decision. In the light of that omission and given the terms of the limited grant of permission to appeal, I do not need to address any other criticisms that may be made of the second FTT's decision. I allow the claimant's appeal to the Upper Tribunal and set aside the second FTT's decision. I consider it is fair and just to re-determine the underlying appeal myself. I decide that in the terms as set out above at the head of this decision and at paragraph 46 below. The result is that the claimant is <u>not</u> entitled to the ordinary rate of JSA for the period from 26 January 2012 to16 December 2012.

5. In *CH v SSWP (JSA)* Judge Ward observed that "it would be fair to say that the claimant sets considerable store by asserting what he regards as rights he possesses in respect of his disability" (at paragraph 5). Judge Ward also remarked that the claimant's lengthy written submissions contain "at least some potentially apposite points but also passages that are irrelevant or repetitious or which rely on unreasoned criticism" (at paragraph 15). In the present proceedings, the claimant, in both his written and oral submissions, has in the same way sought to raise a host of other matters about his treatment by the Department for Work and Pensions (DWP) and in the tribunal process. I regret to say that for the most part those other submissions are wholly misguided and/or irrelevant to the fundamental issue identified in paragraph 1 above. Bearing in mind the need for proportionality, I endeavour to deal with those other submissions in this decision in relatively short order.

The relevant legislation

6. A good starting point is the relevant legislation. The core conditions for entitlement to JSA are contained in section 1 of the Jobseekers Act 1995 ("the 1995 Act"). They include the three "labour market conditions", namely that the claimant (1) is available for employment; (2) has entered into a current valid jobseeker's agreement; and (3) is actively seeking employment (3) (see the 1995 Act, section 1(2)(a)-(c)). Unless treated as having met the relevant condition in question, a claimant must satisfy each of those three conditions to qualify for JSA. At the material time in 2012 (and as amended), section 9 of the 1995 Act read as follows (subsection (6) is italicised as that was the crux of the present appeal):

> **9.— The jobseeker's agreement**
> (1) An agreement which is entered into by a claimant and an employment officer and which complies with the prescribed requirements in force at the time when the agreement is made is referred to in this Act as "a jobseeker's agreement".
> (2) A jobseeker's agreement shall have effect only for the purposes of section 1.
> (3) A jobseeker's agreement shall be in writing and be signed by both parties.
> (3A) The agreement may be in electronic form and signed by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000).
> (4) A copy of the agreement shall be given to the claimant.
> (5) An employment officer shall not enter into a jobseeker's agreement with a claimant unless, in the officer's opinion, the conditions mentioned in section 1(2)(a) and (c) would be satisfied with respect to the claimant if he were to comply with, or be treated as complying with, the proposed agreement.
> *(6) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed jobseeker's agreement to the Secretary of State for him to determine—*
> *(a) whether, if the claimant concerned were to comply with the proposed agreement, he would satisfy—*

(i) the condition mentioned in section 1(2)(a), or
(ii) the condition mentioned in section 1(2)(c); and
(b) whether it is reasonable to expect the claimant to have to comply with the proposed agreement.

(7) On a reference under subsection (6) the Secretary of State —
(a) shall, so far as practicable, dispose of it in accordance with this section before the end of the period of 14 days from the date of the reference;
(b) may give such directions, with respect to the terms on which the employment officer is to enter into a jobseeker's agreement with the claimant, as the Secretary of State considers appropriate;
(c) may direct that, if such conditions as he considers appropriate are satisfied, the proposed jobseeker's agreement is to be treated (if entered into) as having effect on such date, before it would otherwise have effect, as may be specified in the direction.
(8) Regulations may provide—
(a) for such matters as may be prescribed to be taken into account by the Secretary of State in giving a direction under subsection (7)(c); and
(b) for such persons as may be prescribed to be notified of—
(i) any determination of the Secretary of State under this section;
(ii) any direction given by the Secretary of State under this section.
(9) [...]
(10) Regulations may provide that, in prescribed circumstances a claimant is to be treated as having satisfied the condition mentioned in section 1(2)(b).
(11) Regulations may provide that, in prescribed circumstances, a jobseeker's agreement is to be treated as having effect on a date, to be determined in accordance with the regulations, before it would otherwise have effect.
(12) Except in such circumstances as may be prescribed, a jobseeker's agreement entered into by a claimant shall cease to have effect on the coming to an end of an award of a jobseeker's allowance made to him or to a joint-claim couple of which he is a member.
(13) In this section and section 10 "employment officer" means an officer of the Secretary of State or such other person as may be designated for the purposes of this section by an order made by the Secretary of State.

7. It is also relevant to consider regulation 31 of the Jobseeker's Allowance Regulations 1996 (SI 1996/207; "the 1996 Regulations"), which governs the content of jobseeker's agreements:

31.— Contents of Jobseeker's Agreement
The prescribed requirements for a jobseeker's agreement are that it shall contain the following information –
(a) the claimant's name;
(b) where the hours for which the claimant is available for employment are restricted in accordance with regulation 7, the total number of hours for which he is available and any pattern of availability;
(c) any restrictions on the claimant's availability for employment, including restrictions on the location or type of employment, in accordance with regulations 5 , 8 , 13, 13A and 17;
(d) a description of the type of employment which the claimant is seeking;
(e) the action which the claimant will take –
(i) to seek employment; and
(ii) to improve his prospects of finding employment;
(f) the dates of the start and of the finish of any permitted period in his case for the purposes of sections 6(5) and 7(5);
(g) a statement of the claimant's right –
(i) to have a proposed jobseeker's agreement referred to the Secretary of State;
(ii) to seek a revision or supersession of any determination of, or direction given by, the Secretary of State; and
(iii) to appeal to an appeal tribunal against any determination of, or direction given by, the Secretary of State following a revision or supersession.
(h) the date of the agreement.

8. Despite the language of "agreement", a jobseeker's agreement has nothing to do with the law of contract. It is not an enforceable civil contract. This much is clear from section 9(2) of the 1996 Act (and see most recently *RL v Secretary of State for Work and Pensions* [2018] UKUT 177 (AAC) at paragraph 38(i)). The claimant's arguments based on the notion of contract law were summarily dismissed by Judge Ward (*CH v SSWP (JSA)* at paragraph 3) and likewise do not merit further discussion here.

Upper Tribunal Judge Ward's decision in *CH v SSWP (JSA)*

9. The present appeal cannot properly be understood without reference to Judge Ward's decision in *CH v SSWP (JSA)*. In summary, Judge Ward concluded there that the DWP's standard form jobseeker's agreement, at least as it stood in 2012, failed to comply with regulation 31(g) of the 1996 Regulations. This was because it made no reference to the claimant's right, under section 9(6) and (7) of the 1995 Act, to require a referral to be made to a decision-maker who had the power to decide that compliance with the proposed agreement would be unreasonable and to direct that it be changed. Judge Ward further held that the right of referral arose prior to the claimant signing the agreement (see paragraph 28). Judge Ward observed that "the opportunity for referral to a decision-maker should allow for more rounded consideration of the case" (at paragraph 31). Accordingly, "the claimant should have been given the chance to have his reservations about the proposed jobseeker's agreement considered by the person envisaged by the legislation, namely (the decision-maker on behalf of) the Secretary of State" (paragraph 33).

10. In *CH v SSWP (JSA)* Judge Ward had also recorded the Secretary of State's acknowledgment "that physical or mental limitations which are material ought to be considered under section 9(6), pointing out that they should potentially be reflected in the terms of availability for work under regulation13(3) of the regulations, and in steps to seek work under regulation 18(3)(b) and that such matters, if they apply, should be reflected in the jobseeker's agreement in line with regulation 31(c) and (e)" (at paragraph 39). Judge Ward accordingly held in that case that (a) the jobseeker's agreement in question had failed to refer to the correct procedure; (b) the claimant's dispute with the terms of that agreement had not received the appropriate consideration as required by law; and (c) the first FTT's decision therefore involved an error of law in failing to spot this failing (at paragraph 40).

11. Judge Ward in *CH v SSWP (JSA)* allowed the claimant's appeal in two respects when setting aside the decision of the original FTT. First, and on a matter which is no longer live, he held that the claimant was entitled to JSA hardship payments for the relevant period. Second, Judge Ward substituted the following decision for that of the first tribunal:

> "The Department for Work and Pensions' (DWP) decision of 6 February 2012 is set aside. The proposed jobseeker's agreement in respect of the claimant is to be referred to the Secretary of State under section 9(6) of the Jobseekers Act 1995 (the 1995 Act) for determination whether it is reasonable to expect the claimant to have to comply with the proposed agreement and for consideration of whether to make direction under section 9(7). This will carry fresh appeal rights to the First-tier Tribunal."

The FTT proceedings following Upper Tribunal Judge Ward's decision

12. Judge Ward signed off his Upper Tribunal decision on 1 July 2015. On 17 July 2015, and on a commendably prompt referral, the Secretary of State's decision-maker made a fresh decision on the terms of the jobseeker's agreement. In short, the decision-maker took the view that the Jobcentre's now revised proposed terms for the agreement were reasonable, taking into account the claimant's disabilities and circumstances. The decision-maker also concluded that the claimant's suggested amendments to the jobseeker's agreement were not reasonable. A request for a mandatory reconsideration led to no change in the decision, so the claimant appealed again to the FTT. The DTJ dealt with the appeal on the papers and in doing so dismissed the appeal and confirmed the Secretary of State's decision of 17 July 2015. In

consequence the claimant was not entitled to the main rate of JSA from 26 January 2012 to 16 December 2012, as he had not entered into a valid jobseeker's agreement.

The grant of permission to appeal to the Upper Tribunal

13. When granting limited permission to appeal, I gave the following reasons and made certain other observations (emphasis as in the original):

> '7. In his decision on the first Upper Tribunal appeal, UT Judge Ward observed that the Appellant had an evident difficulty "in providing submissions that were remotely concise, or adequately focussed" (see *CH v SSWP (JSA)* [2016] AACR 28 at paragraph 10). [The DTJ] experienced the same difficulty. In addition, the same difficulty is evident in the present application, which is disproportionately long (see further below). To adopt the description used by Butterfield J in *Mehta v. Mayer Brown Rowe and Maw (a firm) and another* [2002] EWHC 1689 (QB), when describing a litigant in person's particulars of claim, they are "diffuse, opaque and on occasion wholly incoherent, and in large measure very difficult to penetrate".
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> 8. There is simply no merit in most of the Appellant's proposed but poorly-focussed grounds of appeal. Some of these grounds appear to be an attempt to re-open issues that were decided by UT Judge Ward's decision, which was not the subject of any successful further appeal. Some of them are attempts to re-open factual issues, which are for the FTT. Many of the grounds are simply irrelevant and/or in the alternative based on pseudo-legalistic 'freemen on the land' tropes ... It is wholly disproportionate to deal with these spurious arguments on an individual basis.
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> 9. There is, moreover, no merit whatsoever in the argument that [the DTJ]'s decision to deal with the appeal on the papers was in any way unfair or a breach of natural justice. [The DTJ] provided detailed and cogent reasons for proceeding as she did under rule 27 of the Tribunal Procedure (First-tier Tribunals) (Social Entitlement Chamber) Rules 2008 (SI 2008/2865) (see her statement of reasons at paragraph [2]). I can see no conceivable argument that she erred in law in her approach.
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> 10. Nor is there any arguable merit in the contention that [the DTJ] was biased in any way, whether that argument is framed in terms of actual or apparent bias. As Mr Justice Rimer (as he then was) once said, this type of argument is essentially "no more than the deployment of the fallacious proposition that (i) I ought to have won; (i) I lost; (ii) therefore the tribunal was biased" (see *London Borough of Hackney v Sagnia* [UKEAT0600/03, 0135/04, 6 October 2005] at paragraph [63]). This point is also, quite simply, unarguable.
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> 11. There is, however, one ground of appeal which on balance I consider to be arguable, which is why I give *limited* permission to appeal. This is the Appellant's ground that [the FTT's] "**decision notice and SOR [statement of reasons] fails to identify why the respondent's revised JSAG [jobseeker's agreement] was reasonable in all the circumstances and why the appellant's rejection of the July 2015 proposed revised JASG was unreasonable for the appeal to be dismissed**" (p.3 of the *Appellant's application & grounds for Permission to appeal the decision of the 23/3/17*).
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> 12. The FTT identifies the relevant legal framework at paragraph [8] of the statement of reasons. In addition, [the DTJ] correctly identifies the failing in the earlier 2012 decision as being that the correct question under section 9(6) was neither asked nor answered (namely whether it was reasonable to expect the Appellant to comply with the proposed jobseeker's agreement): see statement of reasons at paragraph [14]). The substance of the 17 July 2015 decision also seems to have been correctly identified: see statement of

> reasons at paragraph [17]. The competing arguments were summarised in very broad terms: see statement of reasons at paragraphs [19]-[20]).
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> 13. However, whilst the FTT certainly reaches a *conclusion* on the section 9(6) appeal, it is arguable that the FTT did not satisfactorily explain *why* that decision had been reached. There is extensive treatment in the statement of reasons of the steps that the FTT itself took to accommodate the Appellant's disability needs, but much less analysis of the reasonableness or otherwise of the competing terms of the proposed jobseeker's agreement.
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> 14. In this context I note the guidance in the current DWP *Decision Makers' Guide* to the effect that the decision-maker "should consider the impact of any relevant mental or physical health conditions that the claimant suffers from in reaching a decision" (Vol 4 para 21851), citing the *CH v SSWP (JSA)* decision as authority for that proposition. Presumably the same applies to the FTT as to the decision-maker, as the FTT is standing in the shoes of the decision-maker on a full merits review appeal.'

14. I referred in that grant of permission to appeal to what I described as some of the claimant's grounds of appeal as being premised on "pseudo-legalistic 'freemen on the land' tropes". These have proved to be a major distraction in the course of these proceedings. At this stage I will say no more about these arguments as they take the claimant's case nowhere. However, I return to these issues later.

The Upper Tribunal oral hearing

15. As already noted, the second FTT dealt with the claimant's appeal 'on the papers' and so without an oral hearing. The DTJ set out in some detail a total of 12 reasons why she had taken that course of action. The first two reasons were that the appellant had himself asked for the case to be dealt with on the papers and had also said "he would refuse to attend a hearing unless the Tribunal acknowledges that he is a disabled party along with other conditions." Judge Ward also dealt with the appeal without an oral hearing and for similar reasons (*CH v SSWP (JSA)* at paragraphs 7-9). Given that somewhat difficult procedural history, I was not overly confident that it would be feasible to hold an oral hearing of the present appeal. However, I took the view that such a hearing could well be helpful, given the evident difficulties that the claimant had in expressing himself by the written word.

16. In the event, after one false start which was in no way the responsibility of the claimant (see paragraph 45 below), I held an oral hearing of this appeal at Keble House in Exeter on 5 September 2018. The claimant appeared, representing himself, but accompanied for support by his landlord. I should say at the outset that the claimant was courteous and polite throughout the hearing, raising any queries he had in an entirely appropriate manner. I refer in these reasons to the claimant's landlord simply as Mr E, without intending him any disrespect, as identifying him by name may enable some people to identify the claimant himself. I must take this opportunity of thanking Mr E for accompanying and assisting the claimant, as I have very real doubts as to whether the claimant would have been able to manage with the relatively lengthy hearing (from 10.30 a.m. until around 2 p.m., with breaks) without Mr E's input. The Secretary of State for Work and Pensions was represented by Mr R Hadden of Counsel. I am also indebted to him for his helpful and measured approach to the proceedings.

17. It is relevant at this stage to outline some of the claimant's possible diagnoses. These are described in various ways at different points in the appeal bundle. The DTJ who dealt with the second FTT appeal made the following findings, which I adopt and endorse (so far as they go):

> "10. The Appellant has a diagnosis of some reading difficulties including dyslexia and symptoms of visual stress/scotopic sensitivity syndrome (a proposed disorder of vision which is not recognised by any scientific or medical body – page 109), cross dominance (a motor skill manifestation in which a person favours one hand for some tasks and the other for others), stress related illness (page 101), difficulty with all inter-personal interactions (page 102) and the following reference to autistic spectrum disorder: 'there is indeed much about his history and presentation that suggest autistic spectrum disorder' (page 100). The Consultant Psychiatrist who wrote this does not reach a conclusion but asks the Appellant to provide him with further information and confirmation as to whether he considers that having an ASD diagnosis would be 'beneficial' (page 100). I have not been provided with any evidence which shows that this was one and there appears therefore not to be a diagnosis of ASD for this Appellant."

18. I simply observe that the question of which diagnostic labels should properly be attached is, in the final analysis, of little relevance. Whatever the underlying condition or conditions, the important issue for this appeal is how those conditions affect the claimant's ability to function. The ability to function is plainly highly relevant both to the procedural issues (how to conduct an oral hearing of the appeal fairly) and the substantive issues, if it is appropriate to re-decide them (as regard the reasonableness of the terms of the jobseeker's agreement).

19. In the event the claimant made a series of applications, both before and at the hearing, for 'reasonable adjustments' in the oral hearing to accommodate his needs. I accept that these requests could be supported by reference to the recommendations in the detailed report about the claimant by Mrs Jameson, a consultant (in the non-clinical sense) in specific learning difficulties, included in the appeal bundle. It appeared that report had been prepared for the purposes of proceedings in the Administrative Court in 2013. The main focus of that report concerned the implications of the claimant's dyslexia. Mrs Jameson reported that the claimant had difficulties in information processing, in memory tasks, in communication skills, in literacy, in sequencing, organisation and time management and maintaining concentration. In the light of these difficulties, she recommended that the claimant be granted regular breaks in hearings to restore his concentration and be given support during the hearing from a helper or care worker. She concluded her report with a series of more detailed and specific recommendations for reasonable adjustments in any oral hearing.

20. In preparation for the oral hearing I had also consulted the relevant sections of the *Equal Treatment Bench Book*. Taking account of all the material before me, I took the view that certain adjustments to the usual Upper Tribunal hearing procedures were appropriate to ensure a fair hearing. Accordingly, and following a further discussion of the claimant's needs at the outset of the oral hearing, I therefore directed as follows:

> *(1)Allowing the claimant regular breaks in the oral hearing*
> At an earlier interlocutory stage in the proceedings I had directed that there be one 10-minute break every hour. However, on the day the claimant asked for each 45-minute part of the hearing to be followed by a 15-minute break, to allow him both to recover better and to process what had been said in the previous 45-minute session. I agreed to this further adjustment, as I recognised that any hearing can be a stressful event, and all the more so for anyone with the difficulties experienced by the claimant.
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> *(2)Allowing the claimant to record the proceedings*
> Section 9(1)(a) of the Contempt of Court Act 1981 provides that it is a contempt of court "to use in court, or bring into court for use, any tape recorder or other instrument for recording sound, *except with the leave of the court*" (emphasis added). For these purposes, "court" includes "any tribunal or body exercising the judicial power of the State" (section 19 of the 1981 Act). In the present case, as is the standard practice with

Upper Tribunal cases (the practice in the several Chambers of the First-tier Tribunal varies), the oral hearing was digitally recorded on HMCTS equipment. A party may apply after the hearing for a copy of that digital recording (e.g. for the purposes of preparing a further appeal). For that reason alone – and there may well be other reasons – it will in practice perhaps only be in exceptional cases that an Upper Tribunal will permit a party to use their own equipment to record a hearing. Ultimately it is, of course, a matter for the individual judge's discretion, taking into account at all times the overriding objective to deal with cases fairly and justly. Indeed, to the best of my recollection this case was the first case in ten years as an Upper Tribunal Judge that I have made such a direction, authorising a party's 'unofficial' recording. I did so for three principal reasons:

(i) The claimant explained that his cognitive processing difficulties – which were amply evidenced both by Mrs Jameson's report and other evidence on file – meant that he could not take an effective and comprehensive written note in the hearing. He wished to record the proceedings but not just so that he could check it *after the event*. Rather, he wished *during the 15-minute breaks* to check passages to refresh his memory as to the submissions being made (i.e. by withdrawing to one of the consultation rooms, slotting the recording device into his laptop and fast-forwarding to the part of the hearing in question);

(ii) Amongst her many different specific recommendations, Mrs Jameson had recommended that the claimant be allowed to tape-record proceedings. In earlier case management directions, I had directed that "so far as possible, the recommendations relating to communication etc in Ms Jameson's report at p.92 … should be adhered to". While that was phrased in rather general and contingent terms, I can readily see that the claimant came to the hearing with the expectation that he would be permitted to record the hearing on his own equipment, and had prepared himself accordingly;

(iii) From questioning the claimant at the hearing, I was satisfied that he fully understood that his own recording was being permitted subject to the usual conditions governing the recording of any legal proceedings, namely e.g. that the recording was to enable him to refresh his memory about the hearing and must not be published in any format.

(iv) In those cumulatively exceptional circumstances, I considered it appropriate to allow the claimant to make his own recording of the hearing. As it happened, I found support for my ruling in the way the hearing unfolded. Towards the end of the morning session, Mr Hadden had made oral submissions in response to the appeal and on behalf of the Secretary of State for a period of about 35 minutes. The hearing was then adjourned for an hour for the lunch break. On resuming, the claimant explained that he had been able to listen again to Mr Hadden's key submissions and had responded by dictating a note which Mr E then read to me for some 15 or 20 minutes. I have to say that reply was clear and well-organised, seeking to deal sequentially with Mr Hadden's main points, even if in the event I could not accept the arguments being made. Ironically, I have to say that reply was far better focussed than the other (and much longer) written submissions the claimant has provided in the course of these proceedings, which were doubtless prepared under no such intense time pressures (simply by way of example, the claimant's application for permission to appeal to the Upper Tribunal ran to 179 printed pages as against the second FTT's statement of reasons of just 9 pages). I am entirely satisfied that the claimant would not

have been able to engage with the issues and participate in the hearing as he did so effectively in his reply if he had not had access over the lunch break to his own recording of the hearing.

(3)Allowing Mr E to speak for the claimant

Tribunals are, of course, more informal than courts and are often more flexible as regard procedure. So, for example, it is not unusual for tribunals in this jurisdiction to permit a friend to speak for an appellant, even if they may not be 'on record' as a formally accredited representative. The request here was rather different. The claimant had prepared a detailed speaking note, covering eight main heads of challenge. He asked if he could read out alternate arguments (e.g. arguments 1 and 3) and then hand over to Mr E to read the text of each intervening ground (e.g. arguments 2 and 4) in his lengthy pre-prepared statement. This was to enable the claimant – who, I accept, plainly found reading from his note a taxing experience – more time to recover his focus. I agreed to this request, as I could see that neither the claimant nor Mr E were equipped to make detailed submissions on the case without the aid of their speaking note. This inevitably involved a rather longer hearing than might otherwise have been the case but in my view was necessary to ensure a fair hearing. However, for reasons that will become apparent later, I curtailed the hearing to the extent that I did not permit the claimant (or Mr E) to read out verbatim two of the arguments from his speaking note.

(4)Adjusting the hearing room environment

The claimant had made a specific request that he not be required to sit under bright artificial lights because of the effect these had on him. Again, this was noted as a reasonable adjustment in Mrs Jameson's report. Accordingly, I directed that all the fluorescent ceiling lighting in the tribunal hearing room be switched off. Fortunately, it was a sunny day and we were in one of the better hearing suites in the HMCTS estate, the room being well lit by natural light by windows all down one side.

The narrow points of agreement between the parties

21. It was evident from the (voluminous) appeal papers, and confirmed at the hearing, that there were two issues where the parties were agreed. The narrow point of agreement between the claimant and Mr Hadden (on behalf of the Secretary of State) was that the second FTT's decision involved an error of law in that the tribunal had not adequately explained its conclusion that it was reasonable to expect the Appellant to comply with the proposed jobseeker's agreement. To that extent the claimant's ground of appeal identified at paragraph 11 of the grant of permission to appeal (see paragraph 13 above) was made out. Both parties also agreed that in consequence the decision of the second FTT should be set aside.

22. As I also took that view, adopting the reasons I gave when giving limited permission to appeal, there was very simply no need for me to consider the claimant's multifarious other grounds of challenge to the decision of the second FTT (as regard which, in any event, permission to appeal had been refused). In passing I should record here that on 13 February 2018 Mostyn J. had refused the claimant's application for judicial review of that grant of limited permission to appeal (*R on the application of CH v Upper Tribunal* CO/25/2018, p.699). In doing so, Mostyn J. had observed that the claimant's grounds, "as is often the case with grounds prepared by self-represented litigants … suffer from the triple vice of opacity, prolixity and spurious pseudo-legalism". It followed (to anticipate the next part of these reasons) that the only issues I had to address and determine were (i) whether to remit the appeal for re-hearing before a new FTT, or decide the underlying appeal myself; and, if the latter, (ii) (in broad terms) to determine the issue of the reasonableness of the revised jobseeker's agreement bearing in mind section 9(6) of the 1995 Act.

23. In subsequent correspondence the claimant stated that he "did not, had not, and would never consent to this appeal being narrowed down to one particular issue for determination"

(letter dated 10 September 2018). I have to say that the claimant's view is not determinative. My jurisdiction is constrained by the limited grant of permission to appeal and not by the claimant's consent. As Judge Ward had previously had cause to note, "the Upper Tribunal does not have a generalised role in relation to complaints … and only deals with the issues giving rise to them if it is necessary to do so in order to fulfil its responsibilities to determine appeals on a point of law" (*CH v SSWP (JSA)* at paragraph 49). It is my role and function as a Judge to identify the issues to be determined and then decide them. I do not need the claimant's consent to do my job. His belief that I do appears to be based on his misguided freeman on the land theories.

The question of disposal

24. So, having set aside the decision of the second FTT, I first had to decide whether to remit the case to a new FTT for re-hearing or redetermine the underlying appeal myself.

25. Mr Hadden for the Secretary of State submitted that the proceedings had been protracted enough already and the relevant information was all to hand. He therefore advocated that I exercise the power under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 and "re-make the decision" under appeal to the FTT.

26. It was clear to me that the claimant was opposed to that course of action. He evidently wished to see the appeal remitted to a new FTT for re-hearing under section 12(2)(b)(i) of the 2007 Act. However, it was much less clear to me *why* the claimant took that view (unless his preferred route of disposal was in fact driven by his application that I recuse myself, an application which I deal with further below). The claimant told me at the hearing that two of his eight grounds of challenge in his speaking note (arguments 5 and 6) touched on the issue of disposal.

27. Argument 5 was based on Upper Tribunal Judge Jacobs's recent decision in another case involving the same claimant as in the present proceedings, *CH v Plymouth CC and DE (HB)* [2018] UKUT 215 (AAC). There the claimant was entitled to housing benefit but was seeking to insist on payment of that benefit to himself by crossed cheque, rather than by a bank transfer. The local authority had a policy of paying benefit only by BACS. The local authority purported to terminate the claimant's housing benefit entitlement on the basis that he had failed to provide his bank account details. Judge Jacobs held that the council had no power to do so, and that the jurisdiction of both the First-tier Tribunal and the Upper Tribunal was limited to issues of entitlement and did not extend to the method of payment. The claimant sought to argue that the same principle could be applied in the present context. He said that the FTT had failed to have regard to other provisions in the 1995 Act and the 1996 Regulations. There are at least two problems with this line of argument. First, there is no proper comparison or analogy between the issues in *CH v Plymouth CC and DE (HB)* and the present appeal. Second, the claimant's submissions do not explain why the substantive appeal is particularly suited for determination by the FTT rather than by the Upper Tribunal.

28. Argument 6 was an argument that the second FTT had accepted false evidence as fact, so breaching Article 6 of the European Convention on Human Rights (including mistaken identity). I can deal with the supposed "mistaken identity" very shortly. In the concluding part of the DWP response to the FTT appeal, the decision-maker asserted that "the proposed jobseeker's agreement dated 17/07/15 was reasonable and allowed **Mr Baker** to meet the conditions regarding availability and actively seeking employment" (p.11, para.13, emphasis added). So, the claimant argued, the issue of reasonableness had been addressed in the wrong factual context. It was a case of mistaken identity; the decision was about Mr Baker, and not the claimant. There is no merit whatsoever in this line of argument. DWP decision-makers responsible for drafting responses to appeals use a range of templates. On occasion the 'cut and paste' approach is somewhat slapdash and regrettably the name of an appellant from an earlier appeal is accidentally left in the text for a later response. I am entirely satisfied this is

exactly what has happened here. It should not have occurred but has no bearing on the substantive issues at stake. The other submissions in argument 6 were wholly concerned with further criticisms of the second FTT's decision and especially the evidential basis for its fact-finding. Nothing that the claimant has either written or said in this context explained to me why he thought the FTT was in any way better placed than the Upper Tribunal to determine the underlying substantive appeal.

29. I have found no coherent explanation elsewhere in the claimant's submissions as to why the case should be remitted for rehearing before a fresh FTT. I therefore agree with Mr Hadden's submission that the Upper Tribunal should re-make the decision under appeal. In brief I reached that conclusion for the following four reasons:

(1) First, I am more than satisfied that there is ample documentary evidence before me (the file before the second FTT was 250 pages long, and it has now grown to over 800 pages). I should add that the claimant complained that the DTJ had excluded a further 800 or so pages of documentary evidence. Whether or not she did, I am confident I do not need to see such any such material to determine the issues before me. There is more than enough by way of evidence and submissions already on file.

(2) Second, the case has already been subject to lengthy delays and any further delay is wholly disproportionate to the issues involved. It relates to a decision taken in 2015 about circumstances in 2012.

(3) Third, the claimant was present at the oral hearing and was able to make submissions in person, aided both by Mr E and the facility during the breaks to play back earlier passages in the hearing. Given the difficulties that have been encountered in the past in securing the claimant's attendance at hearings (see paragraph 15 above), there was no guarantee that the claimant would be able to attend another FTT and indeed participate under such advantageous conditions.

(4) Fourth, the Secretary of State was on the day (most unusually) represented by counsel, who ensured that the Department's case was put clearly, concisely and fairly; a presenting officer might (or, in my experience, perhaps more likely might not) attend any rehearing.

All those factors amounted to compelling reasons for the substantive decision to be re-made by the Upper Tribunal following the oral hearing in Exeter on 5 September 2018.

The Upper Tribunal's analysis of the underlying substantive appeal

30. The introductory paragraph of the decision of the DWP decision-maker on 17 July 2015, following the referral made in consequence of Judge Ward's decision in *CH v SSWP (JSA)*, was in the following terms:

> "I determine that if [CH] were to comply with the proposed Jobseeker's Agreement dated 04/01/2012 he would not satisfy the condition that he is available for employment, and the condition that he is actively seeking employment and it would be unreasonable to expect [CH] to comply with the terms of the proposed Jobseeker's Agreement."

31. The reference to the "proposed Jobseeker's Agreement dated 04/01/2012" was a reference to the original agreement that the claimant had refused to sign on first claiming JSA in 2012. This was the jobseeker's agreement that had been before Judge Ward. The decision-maker on 17 July 2015 accordingly then went on to set out the terms of a revised agreement. This specified (as had the original agreement) that the "types of job I am looking for" were "Conservation work, outdoor assistant (outbounds), gardener/tree". The revised agreement, as directed by the new decision-maker, also made provision for the claimant's proposed

availability and job search activity. As Mr Hadden pointed out at the oral hearing, there were a number of modifications to the terms of the jobseeker's agreement when compared with the original January 2012 version. Four examples will suffice. First, the undertaking to access the jobseekers.direct.gov.uk website was reduced from three times a week to twice a week. Second, the general requirement to access the internet daily was reduced to weekly. Third, such access was stipulated to be subject to the qualification that it was "for periods acceptable to me in view of my problems associated with spending too long in front of a screen". Fourth, it was accepted that the agreement could be reviewed with a disability employment adviser (DEA) as and when requested by either party.

32. Mr Hadden acknowledged that by virtue of section 9(6) of the 1995 Act the decision-maker, in carrying out this process, had to address two questions. The first (see section 9(6)(a)) was whether, "if the claimant concerned were to comply with the proposed agreement, he would satisfy" the JSA entitlement conditions of availability for work and actively seeking work (i.e. the conditions mentioned in section 1(2)(a) and (c) of the 1995 Act). The second question was "whether it is reasonable to expect the claimant to have to comply with the proposed agreement" (see section 9(6)(b)). Mr Hadden's submission was that the answers to those two questions were both in the affirmative, and so the underlying appeal against the decision of 17 July 2015 should be dismissed. He argued that the decision-maker had taken due account of the claimant's personal circumstances, e.g. in both specifying the types of work and the types of job-search activity. In contrast, Mr Hadden submitted, there had been no clear or coherent explanation from the claimant as to why he objected to the terms of the revised agreement.

33. The appeal file shows that the claimant accepted the "types of job I am looking for" in the original jobseeker's agreement from January 2012, but with the qualification that "I acknowledge this may change" (p.31). For the most part, he set out copious reasons why he objected to certain aspects of that original document (see pp.16-37). Some of these objections related to duties that he felt should be imposed on the DWP (e.g. the agreement "only sets out my availability. Where is the DWP's availability?"; p.17). He objected to the clause stating that he had to apply for all jobs that Jobcentre Plus told him to apply for, "due to the J/C not recognising my disabilities/difficulties and could force me to take employment which causes me distress and fails to cater for my problems" (p.24). As Mr Hadden noted, this objection was by way of a pre-emptive strike, as the claimant could not know which jobs he would be told to apply for, and in any event the range of work had been fairly narrowly defined. The claimant also objected to the requirement that he was able to start immediately as "this will depend on what job is available, location, court proceedings, finance and other considerations" (p.31). I agree with Mr Hadden that such a qualification was not necessarily consistent with the statutory requirement to be available for work.

34. Mr Hadden submitted that the claimant had simply refused to sign the revised jobseeker's agreement in 2015, but had failed to explain what his objections were. The claimant's response to that was that the revised agreement failed to reflect his true circumstances. He further argued in reply that he had set out his objections in his appeal against the DWP's revised jobseeker's agreement and in his applications for permission to appeal as made to both the FTT and the Upper Tribunal. Those documents run to very many pages. However, they singularly fail to engage with the individual provisions in the revised jobseeker's agreement or explain why those terms are unreasonable.

35. I have to consider afresh whether, first, "if the claimant concerned were to comply with the proposed agreement, he would satisfy" the JSA entitlement conditions of availability for work and actively seeking work. I am satisfied that he would meet those statutory requirements if he adhered to the terms of the 17 July 2015 revised jobseeker's agreement. The jobs listed were appropriate and realistic given the claimant's career experience. The proposed hours of work and travelling time were entirely sensible and not onerous. The job

search activities were suitably calibrated to the claimant's own circumstances. However, he would not meet the statutory tests if those terms were hedged around with the sorts of qualifications and restrictions which the claimant apparently sought to impose.

36. Secondly, I must also consider whether "it is reasonable to expect the claimant to have to comply with the proposed agreement". I am more than satisfied that it would be. Despite being given ample opportunity, the claimant has failed to explain how it would be unreasonable to expect him to comply with the revised jobseeker's agreement. I recognise that DWP local office staff in Jobcentres are often criticised for seeking to impose unduly onerous jobseeker's agreements on claimants, which are said to be insufficiently focussed on the individual's suitability for certain types of work and also too reliant on overly demanding standard-form job-search requirements. I make no comment on that type of critique. However, such criticisms certainly cannot be made in this instance. The types of work in both the original and the revised agreement were entirely appropriate, given the claimant's own career history and his recognised difficulties. It would have been wholly unreasonable to expect him to look for e.g. complex clerical work, but that was not what was required of him. The various job-search activities and their frequency had been relaxed (as Mr Hadden spelt out) and suitably tailored in the light of the claimant's difficulties. In addition, the revised July 2015 agreement did not include all the many standard form (and frankly somewhat one-sided) requirements printed on the reverse of the original January 2012 agreement. The July 2015 jobseeker's agreement may not have been perfect, but that is not the test under section 9(6). It was, however, a reasonably bespoke jobseeker's agreement for the claimant's own circumstances, supplemented by the helpful Jobcentre letter of 17 July 2015 (pp.67-69), that satisfied the relevant statutory criteria.

37. In both his written and his oral submissions the claimant placed great emphasis on a reference in the second FTT's decision to a meeting he had (supposedly) had with Jobcentre staff on 11 January 2015. The claimant argued this was a finding of fact for which there was no evidence and which (as I understood his argument) invalidated the whole process. The passage in the FTT's reasons read as follows:

> "19. By letter of 17.7.15 the decision maker wrote (page 67) to say that she had decided that the terms of the JSAG were reasonable and that the Appellant's availability for work and job search plans were not reasonable. These plans had been discussed with a Job Centre Adviser on 11.1.15. Various amendments to incorporate the points which had been raised by the Appellant were noted in italics."

38. There is nothing whatsoever in this point. The explanatory Jobcentre letter of 17 July 2015 certainly referred to "the proposed Jobseeker's Agreement dated from 04/12/2012 (as discussed with a Jobcentre Advisor on 11/01/15)". The second FTT doubtless 'lifted' the date of 11 January 2015 from that letter. There is no other evidence of a meeting on that date, which would be inconsistent with the time-line for these appeal proceedings. What is clear is that there was a meeting between the claimant and an adviser on 11 January 2012 (see screen print at p.13). The reference to 11/01/15 is, very simply, another typographical error. It seems it was first made in the Jobcentre letter of 17 July 2015 and then repeated in the FTT's reasons. The meeting clearly took place in January 2012. It may or may not have been a satisfactory meeting from the claimant's perspective. However, that is irrelevant for present purposes. It simply has no direct bearing on the resolution of the issues to be decided under section 9(6) of the 1995 Act.

39. The claimant set out several other grounds or challenges in his submissions on the appeal. Most of these were criticisms of various sorts as to the conduct and findings of the District Tribunal Judge who constituted the second FTT. The eight arguments in the claimant's speaking notes were on the following themes: (1) conflict of interest; (2) article 6 HRA 1998; (3) jurisdiction: judicial appointment – malpractice; (4) human rights article 10;

(5) Judge Jacobs's finding; (6) false evidence accepted as fact; (7) ESA medicals; (8) unqualified jurisdiction – abuse of process. At the oral hearing I heard from the claimant (or Mr E) on all of those matters bar arguments (3) and (4). I advised the claimant I did not need to hear from him on the latter two arguments but expressed a willingness to consider them if he wished to send in a clean copy of his speaking note after the hearing. The claimant duly provided such a copy. I have read those passages and there is nothing there that advances the claimant's argument on the key issues to be determined. My decision not to hear from him on the day about arguments (3) and (4) was an entirely appropriate case management decision. As I have explained above (see paragraphs 14 and 22), I do not need to deal with all these other submissions in any detail, or indeed at all, given the fact that the appeal to the Upper Tribunal succeeds and the parties are agreed that the second FTT's decision must be set aside. That said, I have to say I can discern no merit whatsoever in these various other heads of challenge.

The recusal application

40. There is, however, one further argument which I do need to address. The claimant's first argument, as presented at the Upper Tribunal oral hearing, was that both the District Tribunal Judge and I should have recused ourselves from dealing with his appeal as there was alleged to be a conflict of interest. The claimant's argument appeared to be that this was a clear case of bias. I disregard the challenge to the District Tribunal Judge for the reason explained in the previous paragraph. The basis for this claim of bias on my part, as put at the oral hearing, was both confused and quite extraordinary. The claimant asserted that I was currently a Professor of Law at the University of Southampton and as such I was subject to the duty under section 26 of, and Schedule 6 to, the Counter Terrorism Act 2015 to prevent people from being drawn into terrorism. Although I struggled to see the connection, this apparently meant I was biased against the claimant. The outlandish suggestion was also made that either counter-terrorism police or the security services may have been involved in the allocation of the claimant's case to the District Tribunal Judge and then to myself.

41. This is, quite simply, fanciful nonsense, the stuff of conspiracy theories, and barely merits a considered response. However, for the record I explained to the claimant at the hearing that some ten years ago I had indeed held the academic position he referred to, but that I am now a full-time salaried member of the judiciary and an *Emeritus* Professor at Southampton, which is essentially an honorary position with no active involvement in university affairs. Putting that to one side, I was struggling to see the relevance of the 2015 Act and the 'prevent' duty to the claimant's own circumstances. The claimant may well hold some bizarre 'freeman on the land' beliefs which are difficult to reconcile with conventional understandings of the rule of law. However, the security services and counter-terrorism police focus their efforts on combatting very different and actively dangerous threats to civil society. I did not consider it would be fruitful to pursue any line of enquiry as to quite how the claimant himself might conceivably be a subject of interest to the State's security apparatus. Be that as it may, the claimant has not advanced any intelligible case as to why I should have recused myself and I decline to do so. In doing so I have applied the principles summarised in my decision in *Kirkham v Information Commissioner (Recusal and Costs)* [2018] UKUT 65 (AAC) at paragraphs 14-20.

42. By way of context, the claimant appears to have taken great exception to my earlier ruling that he should be listed in these proceedings as a party by name in the usual way, namely as 'Mr C [first name] H [surname]'. He had sought to describe himself, both in the jobseeker's agreement and his application to the Upper Tribunal, in the somewhat unusual format, all in lower case, of 'c [first name] of the h [surname] family', also claiming that he refused to accept the title of 'Mr' on any form of contract. As I observed in my grant of limited permission to appeal:

> '21. This is, of course, nonsense. There are no legal implications in the term 'Mr' (or indeed 'MR') and in whether a person's name is spelt in lower case or upper case. These are classic tropes perpetuated by the so-called freeman on the land (FOTL) movement, which is a form of pseudo-legal hocus pocus. FOTL adherents believe they can opt out of being governed, and that what ordinary people understand to be "laws" are merely a form of "contract" that applies only if people consent to it. These so-called freemen also believe that all legal actions, restrictions and statutes can only be applied to their legal personality, and that, by separating themselves from their legal person, they can free themselves of having to abide by statute laws they do not like – a process sometimes known as adopting the double or split person strategy. The tenets and beliefs of the FOTL movement have been shown to have no legal basis whatsoever (see e.g. in Canada the comprehensive demolition in the decision of the Court of Queen's Bench of Alberta in *Meads v Meads* 2012 ABQB 571). The "X of the family Y" name motif is one such pure affectation in FOTL thinking, indicative of a litigant's purported attempt to adopt a double or split person strategy to litigation (see *Meads v Meads* at paras [209]-[212]). I see no reason to indulge the Appellant in this misguided way of thinking and every reason not to permit its usage in official documents.'

43. In so far as is necessary, in refusing the renewed recusal application I also rely on the reasons I gave on 12 December 2017, when I refused his earlier application that I recuse myself:

> '14. The Appellant also applies for a direction that I recuse myself (p.628). He complains about the terms of my limited grant of permission and suggests that I have shown "oppressive bias" (p.628). The test for recusal is well known, namely whether there is a real possibility that would lead a fair-minded and informed observer to conclude that the Tribunal was biased (the test in *Porter v Magill* [2001] UKHL 6). It is well established that the mere fact that a judge has commented adversely on a party, their evidence or submissions does not of itself warrant recusal (see *Locabail (UK) Ltd V Bayfield Properties Ltd* [1999] EWCA Civ 3004). A series of appellate decisions have encouraged trial judges to take a robust approach to recusal challenges, not least as parties cannot gain the impression that they can "pick their own judge".
>
> 15. I have considered the Appellant's objections in the light of those principles derived from the case law. I accept that I explained my reasoning firmly in the grant of permission but I considered it important that the Appellant be left under no misunderstanding as to what is acceptable and not acceptable in the conduct of these proceedings. By way of reference to the "freeman on the land" tropes, the Appellant criticises my reference to the Canadian case of *Meads v Meads* 2012 ABQB 571. I note, however, that similar critical comments have been made by other courts in the United Kingdom. For example, in the Northern Ireland case of *Foster v McPeake & Ors* [2015] NIMaster 14 (at paragraph [24]), Master Bell referred to Master McCorry's earlier decision in the case of *The Man known as Anthony Parker v The Man known as Master Ellison and the Man known as Donnell Justin Patrick Deeny* (Unreported, 16 April 2014). There Master McCorry concluded that the plaintiff's arguments largely consisted of "a kaleidoscope of pseudo legalistic jargon, alien to law, practice and the administration of justice in any modern common law jurisdiction and in short is largely nonsense." Master Bell furthermore stressed in *Foster v McPeake & Ors* (at paragraph [25]) the importance of examining the plaintiff's submissions "to ensure that beneath the sometimes meaningless 'Freemen on the Land' language there does not lie an argument which has some merit." In that context I also bear in mind that in this case I have indeed granted permission to appeal on a matter on which the Secretary of State's representative agrees shows that the First-tier Tribunal erred in law.

16. In all those circumstances I do not consider that a fair-minded and informed observer would consider there was a real possibility of bias. I therefore refuse the application that I recuse myself.'

44. I just add that I consider my approach to the recusal application entirely justified, and indeed vindicated, by the robust terms of Mostyn J.'s refusal of the application for permission to apply for judicial review of my grant of limited permission to appeal (see paragraph 22 above).

An apology

45. Finally, I must apologise to the parties for the fact that an earlier Upper Tribunal hearing of this appeal scheduled for April 2018 had to be vacated at short notice. This was owing to a family bereavement.

Conclusion

46. The decision of the First-tier Tribunal involves a material error of law. I allow the claimant's appeal to the Upper Tribunal and set aside the decision of the First-tier Tribunal (Tribunals, Courts and Enforcement Act 2007, section 12(2)(a)). I re-make the decision of the First-tier Tribunal, essentially in the same terms, as follows (section 12(2)(b)(ii)):

The Appellant's appeal is dismissed.

The Respondent's decision of 17 July 2015 is confirmed.

The Appellant is not entitled to JSA at the main rate from 26 January 2012 to 16 December 2012 because he has not entered into a valid jobseeker's agreement and nor can he be treated as having entered into one. For the reasons given in this decision, if the Appellant were to comply with the proposed agreement of 17 July 2015 he would satisfy the JSA entitlement conditions of availability for work and actively seeking work (i.e. the conditions mentioned in section 1(2)(a) and (c) of the 1995 Act). Furthermore, it was reasonable to expect the Appellant to have to comply with the proposed agreement.

47. Finally, I should record that the official version of this Upper Tribunal decision is that under the rubric *CH v SSWP (JSA) (No.2)* in the format and with the pagination as published on the Chamber's website. However, as a further reasonable adjustment for the claimant, I have directed the office to send him an identical version of the text of the decision but in double-spaced format.

Signed on the original
on 25 September 2018

Nicholas Wikeley
Judge of the Upper Tribunal