IN THE UPPER TRIBUNAL

JR/4162/2019

Field House,
Breams Buildings
London
EC4A 1WR

20th February 2020

BEFORE

THE HONOURABLE MRS JUSTICE FOSTER DBE

Between

The Queen on the Application of
SEYEDEH [G]

Applicant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

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Adeel Malik, instructed by RP Singh, Solicitors, appeared behalf of the Applicant.

Benjamin Seifert, instructed by the Treasury Solicitor appeared on behalf of the Respondent

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JUDGMENT

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MRS JUSTICE FOSTER:
INTRODUCTION

1. This is an application for judicial review of a decision dated 30 May 2019 in which the Entry Clearance Officer ("ECO") refused the Applicant Mrs [G] entry clearance from Iran to enter the UK to visit her two daughters.

2. The applicant's solicitors applied on 26 March 2019 on her behalf for a visit visa to the Entry Clearance Office in Istanbul. The application explained that the applicant was a retired school administration and teaching support assistant then aged 55, she received a state retirement pension paid into her Iranian bank account; the pension payslips were enclosed and relevant bank statements. Also enclosed was a bundle of financial materials evidencing health insurance in Iran, and also property held in Iran: her own dwelling and 2 rental properties which were let out. It was further explained the sponsor daughter worked for British American Tobacco earning an annual salary of £33,370 and would support her mother's visit three months including payment of her return flight tickets and UK expenses. The sponsor undertook to ensure her mother would return at the end of her visit.

3. The application indicated Mrs [G] had travelled to Turkey in 2015 and that she had visited Iraq once a year over the last few years for a religious pilgrimage and had always returned to her home in Iran. Her next travel to Iraq was planned for October 2019, again on pilgrimage.

4. She explained that there had been a 12 -year separation from her daughters for exceptional reasons because the daughters had joined her ex-husband in 2007, he having been granted asylum in the UK, under the family reunion provisions. The father would not allow the mother to see the daughters following the divorce.

5. This application was refused on 7 May 2019.

6. The terms of that refusal were the following:

   "*you have applied for entry clearance to the UK for two months and 30 days to visit your two daughters you have not seen for 12 years. I acknowledge the supporting documents from your daughters and from RP Singh Solicitors in the UK but must be satisfied that your circumstances in Iran are such that you will comply with the conditions of the visa.*

   You state that you have an income from pension amounting to £5440 a year. In support of this you have provided some pension certificates that detail that your pension is 20,417,514 IRR (£102) a month. I also acknowledge your 2 bank statements from Bank Melli and Bank Mellat. However, both of these statements show large deposits and it is not clear where the deposits come from. Indeed, the bank statement from Bank Melli shows a loan on 19 January 2019. I am therefore not satisfied that these documents are a true reflection of your financial circumstances. This causes me to doubt that your

circumstances in Iran are as stated and therefore your intentions of seeking entry to the UK.

For the reasons above I am not satisfied that you are genuinely seeking entry for a purpose that is permitted by the visitor route (Appendix 4.2 (c)). Nor have you shown that your circumstances are such that you will leave the UK at the end of your visit (Appendix V 4.2(a).

I have therefore refused your application on the grounds that I'm not satisfied on the balance of probabilities that you meet all of the requirements of the relevant Appendix of the United Kingdom Immigration Rules."

7. The refusal was challenged by a Pre-Action Protocol ("the first PAP letter") letter dated 22 May 2019. The refusal appeared to the applicant's advisors to be based on a misunderstanding of some of the financial documentation and the ECO's consequent belief she was not being truthful about her financial circumstances in Iran.

8. The first PAP letter pointed out factual inaccuracies in the ECO's refusal of 7 May and explained that the ECO appeared to have ignored the evidence of property ownership valued at 10,000 million IRR, a pension income and income from one leased property in 5 million IRR and another in 3 and a half million IRR. The deposits, about which the ECO had commented that they were large and he did not know their source were, they explained, interest payments from the bank, and into her account and cash deposits. They pointed out one of them was in the sum of £8.01 and another in £54.00. Also erroneously, the ECO appears to have seen a loan to her account; in fact this was his misunderstanding.

9. Further details were given in the first PAP letter of the settled life the Applicant lived in Iran explaining how on a weekly basis she visited her mother and father's grave but had not explained the fact earlier believing that her financial details and her strong economic ties to Iran were sufficient evidence of her genuine intention to return. Documentation including the title deeds, and lease arrangements on her property together with her health insurance et cetera were sent with the letter.

10. Following this letter the decision of 7 May 2019 was withdrawn. A new entry clearance decision was made: it was a further refusal, dated 29 May 2019. This later decision letter said as follows

"*You applied for entry clearance to go to the UK for three months "your initial application for a UK visit Visa ... [it] was refused on 7/5/2019. Following the submission of a [PAP] letter, the decision has been reviewed and revoked for a fresh assessment to reconsider the documents and information provided and take account of the content of the submissions.*

However, I have re-refused your application for a visit Visa because I am not satisfied that you meet the requirements of paragraph (s) V 4. 2 (10) Appendix V because

You applied for entry clearance to go to the UK for three months to visit your two daughters who relocated to the UK themselves to join their father in 2007. I acknowledge supporting documents from your daughters and I am satisfied that they could adequately maintain and accommodate you for the proposed visit.

The PAP letter submitted has sought to clarify the issues raised in the previous refusal letter regarding the origins of funds into your bank accounts in Iran and your financial circumstances there although the documents still do not make clear what is your disposable income. Nevertheless, I have taken into consideration the calculations offered by your solicitor of a monthly pension income … and two rental incomes … Respectively making a total monthly income of … Equivalent to an annual income of … According to the bombast exchange rate on the date of assessment (£l = 198250, as quoted from the previous refusal notice) that is an equivalent annual income in Iran, from all sources of £l525 to support yourself and meet the cost of your own accommodation and the maintenance of the spaces you rent. However, this position is the same whether or not you are in Iran or in the UK and does not demand your presence there to continue. Given this is your income, I am not satisfied that your circumstances are such that you will leave the UK. You are divorced and retired with no other children or family in Iran. Your children are permanently settled in the UK and have no intention to leave themselves.*

I have therefore refused your application because I am not satisfied, on the balance of probabilities, that you are seeking entry to the UK only to visit or that you will leave the UK after a limited period. V4.2 (a) (c).

**I am aware from information in the public domain and other currency conversion tools, such as wuw.bombast.com that while the OANDA website shows the official exchange rate, it is not possible to exchange currency at the official rate and that he actual rate you are likely to receive is around 198250 IRR(£1).*"

11. Following receipt of this refusal the applicant's advisors wrote to the respondent challenging the 29 May 2019 decision with a second Pre-Action Protocol letter on 20 June 2019 containing a number of further details about the applicant's ties to her home country, emphasising the amount received by the applicant was adequate to support her comfortably in Iran and that all her evidence of economic ties had been submitted already.

12. The Secretary of State ("SSHD"), decided on 27 June 2020 to maintain the refusal of leave to enter. The SSHD's defence of the application is shortly put and to the effect that the ECO was entitled to conclude she would not leave after her visit as she said she would because she had a modest annual income and her close family were all resident in the UK (Detailed Grounds of Defence paragraph 12).

LEGAL FRAMEWORK

Immigration Rules

13. The SSHD under section 3(2) of the 1971 Act, has promulgated the Immigration Rules Paragraph V4 of which, provides insofar as relevant the requirements for entry clearance as a visitor:

> ***V 4.1*** *The decision maker must he that the applicant meets all of the eligibility requirements in paragraphs V 4.2 – V 4.10. The decision maker must be satisfied that the applicant meets any additional eligibility requirements, where the applicant:*
>
> (a) *is a child at the date of application, they must also meet the additional requirements at V 4.11 — V 4.13; or*
>
> (b) *is coming to the UK to receive private medical treatment} they must also meet the additional requirements at V 4.14 — V 4.16; or*
>
> (c) *is coming to the UK as an organ donor, they must also meet the additional requirements at V 4.17 — V4.20; or*
>
> (d) *is coming to the UK under the ADS agreement, they must also meet the additional requirements at V 4.21; Of*
>
> (e) *is an academic seeking a 12 month visit visa, they must also meet the additional requirements at V 4.22*
>
> ***V 4.2*** *applicant must satisfy the decision maker that they are a genuine visitor. This means that the applicant:*
>
> (a) *will leave the UK at the end of their visit; and*
>
> (b) *will not live in the UK for extended periods through frequent of successive visits, or make the UK their main home; and*
>
> (c) *is genuinely seeking entry for a purpose that is permitted by the visitor routes (these are listed in Appendices 3, 4 and 5); and*
>
> (d) *will not undertake any prohibited activities set out in V 45 V 4.10, and*
>
> (e) *must have sufficient funds to cover all reasonable costs in relation to their visit without working or accessing public finds. This includes the cost o/ the return or onward journey, any costs relating to dependants, and the cost of planned activities such as private medical treatment*
>
> ***V 4.3*** *A visitor's travel, maintenance and accommodation may be provided by a third party where the decision maker is satisfied that they:*
>
> (a) *have a genuine professional or personal relationship with the visitor; and*
>
> (b) *are not, or will not be, in breach of UK immigration laws at the time of decision or the visitor's entry to the UK; and*
>
> (c) *can and will provide support to the visitor for the intended duration of their stay.*

V 4.4 *The third party may be asked to give an undertaking in writing to be responsible for the applicant's maintenance and accommodations In this case paragraph 35 of Part 1 of these Rules applies also to Visitors. An applicant will normally be refused where, having been requested to do so, the applicant fails to provide a valid written undertaking from a third party to be responsible for their maintenance and accommodation for the period of any visit.*

Policy Guidance:

14. The Respondents policy guidance, "Visit Guidance Version 6.0 14 June 2017" is in the following terms:

Visit: genuineness and credibility

Assessing an applicant's genuine intentions to visit
See: paragraph V 4.2 of appendix V: visitor rules.

- *You must be satisfied that the applicant meets all the requirements of V 4.2 to V 4.10 of the visitor rules and is a genuine visitor, See also V 8.4 for extensions of stay. If you are not satisfied, you must refuse their application. A visitor can enter, or extend their stay to do different permitted activities but they should be expected to have a main reason or reasons for visiting, example for business or a holiday, and be able to provide details. However, particularly where a visitor holds a long-term, multiple entry visit visa valid for 2, 5 or 10 years, it is likely that their reasons for visiting will over time. This is permissible, provided they continue to intend to undertake one or more permitted visitor activity. See suitability for further details.*

Assessing an applicant's personal circumstances
See: paragraph V 42 of appendix V: visitor rules?

The following factors will help you assess if an applicant is a genuine visitor:

- *Their previous immigration history, including visits to the UK and other countries*
- *the duration of previous visits and whether this was significantly longer than they originally stated on their visa application or on arrival if this is the case, you should not automatically presume that the visitor is not genuine, but this may be a reason to question the applicant's overall Intentions*
- *their financial circumstances as well as their family, social and economic background*
- *their personal and economic ties to their country of residence*
- *the cumulative period of time the applicant has visited the UK and their pattern of travel over the last 12 month period, and whether this amounts to 'de facto' residence in the UK*

- *whether, in your judgment, the information and the reasons for the visit or for extending their stay provided by the applicant are credible and correspond to their personal, family, social and economic background*

- *other information that is relevant to assessing the applicant's intentions, such as:*

    - *the applicant's country of residence and/or country of nationality - this can include the political, economic and security situation - you may use any reputable publicly available information to identify these factors for example, Home Office country information reports, UN reports, EU reports, factual media reporting*

    - *where publicly available information indicates that the political and/or economic and/or security situation in the country (or part of the country) in which the applicant has the right to reside permanently is unstable or is a conflict zone because it has significant political or social unrest, this will form an important part of the assessment of whether the applicant is a genuine visitor who has the intention and ability to leave the UK at the end of their visit- an example of this scenario is in the next bullet*

    - *where information indicates that the country or part of a country is a conflict zone, this information, if it is not outweighed by the particular circumstances of the applicant - for example, that they also have legal right to reside permanently in another, more stable country - can be sufficient reason for you not to be satisfied that the applicant is a genuine visitor*

    - *information on immigration non-compliance by individuals who applied for a visit visa from the same geographical region as the applicant - this can include published statistical information on immigration non-compliance and any other locally held information Home Office published statistical reports may help with your assessment*

<u>Travel/ immigration history</u>

You must check the applicant's travel history in their passport (and, for visa applications, listed on the form). A pattern of travel that shows the applicant has previously complied with UK immigration law may indicate the applicant is a genuine visitor. As might travel to other countries, especially the USA, Canada, Australia, New Zealand, Ireland, Schengen countries or Switzerland

If an applicant has previously failed to comply with another country's immigration law, for example if they have been removed from another country, or if they have been refused entry to another country, this may that an applicant is not a genuine visitor (depending on the circumstances).

Travel history should not be the only consideration in deciding whether you are satisfied an applicant is a genuine visitor. In particular there may have been a change in circumstances since previous travel. You should consider all relevant

information for each application including any social and economic factors and any locally held information.

Where the applicant is a first-time traveller, you will need to rely on other evidence to satisfy you they have a genuine intent to visit.

Frequent or successive visits: how to assess if an applicant is making the UK their main home or place of work
See: paragraph V 4.2(b) appendix V: visitor rules.

You should check the applicant's travel history, including how long they ace spending in the UK and how frequently they are returning. You must assess if they are, in effect, making the UK their main homes You should look at:

- *the purpose of the visit and intended length of stay stated*
- *the number of visits made over the past 12 months, including the length of stay on each occasion, the time elapsed since the last visit, and if this amounts to the individual spending more time in the UK than in their home country*
- *the purpose of return trips to the visitor's home country and if this is used only to seek re-entry to the UK*
- *the links they have with their home country - consider especially any long term commitments and where the applicant is registered for tax purposes*
- *evidence the UK is their main place of residence, for example:*
    - *if they have registered with a general practitioner (GP)*
    - *if they send their children to UK schools*
- *the history of previous applications, for example if the visitor has previously been refused under the family rules and subsequently wants to enter as a visitor you must assess if they are using the visitor route to avoid the rules in place for family migrants joining British or settled persons in the UK*

There is no specified maximum period which an individual can spend in the UK in any period such as '6 months in 12 months'. However, if it is clear from an individual's travel history that they are making the UK their home you should refuse their application.

Grounds for doubting the applicant's intentions to visit the UK See: paragraph V 4.2 of appendix V: visitor rules.

This is not an exhaustive list but may help with your assessment if

- *The applicant has few or no family and economic ties to their country of residence, and has several family members in the UK – for example a person with most of their family in the UK and no job or study in their own country may be considered to have few ties*

- *the political, economic and security situation in the applicant's country of residence, including whether it is politically unstable, a conflict zone or at risk of becoming one, which may lead to doubts about their intention to leave the UK at the end of their visit see "Assessing an applicant's personal circumstances"*
- *the applicant, their sponsor (if they are visiting a friend or relative) or other immediate family member has, or has attempted to, deceive the Home Office in a previous application for entry clearance, leave to enter or leave to remain*
- *there are in discrepancies between the statements made by the applicant and the statements made by the sponsor, particularly on points where the sponsor could reasonably be expected to know the facts but does not*
- *it has not been possible to verify information provided by the applicant despite attempts to do so*
- *the information that has been provided or the reasons stated by the applicant are not credible*
- *a search of the applicant's baggage and vehicle at the border reveals items which demonstrate they intend to work of live in the UK*

Credibility and intentions: borderline decisions
See: paragraphs V 4.2 and V 8.4 of appendix V: visitor rules

For visa applications, if you are satisfied that the applicant meets all the visitor rules you should grant the visa, but if some aspects remain of concern, you should consider whether to grant a short duration visa.

At the border, you must use code 3 if the applicant meets all the visitor rules. but some aspects remain of concern."

CONSIDERATION

15. It was argued before me that there were material public law errors in the decision making process: in effect that the decision had ignored material evidence and was irrational and therefore unlawful, alternatively the ACO had not properly considered and applied the relevant Immigration Rules. Various other allegations of illegality including a failure properly to consider the provisions of Article 8 ECHR were made but in essence the challenge is one of rationality and involving the obligation to have regard to material factors.

16. In my judgement this is essentially a simple case and that whilst the burden of showing that she comes within the rules falls squarely upon Mrs [G], the ECO must apply the Immigration Rules and Guidance in a rational manner and apply the standard of proof, namely the balance of probabilities lawfully when making his assessment. The ECO must reach a conclusion which is rationally supported by the materials in order to be defensible.

17. The judicial review jurisdiction is not lightly exercised in this context and it will be an unusual case in which the decision of the ECO is held to be unlawful, but

in my judgement this is one of those cases. The decision cannot be defended and must be quashed

18. The operative part of the second decision appears to be the following, (emphasis added):

"*I have taken into consideration the calculations offered by your solicitor of a monthly pension income… and two rental incomes… Respectively making a total monthly income of… Equivalent to an annual income of… According to the bombast exchange rate on the date of assessment (l pound equals 198250, as quoted from the previous refusal notice) that is an equivalent annual income in Iran, from all sources of £1525 to support yourself and meet the cost of your own accommodation and the maintenance of the spaces you rent.* ***However, this position is the same whether or not you are in Iran or in the UK and does not demand your presence there to continue. Given this is your income, I am not satisfied that your circumstances are such that you will leave the UK. You are divorced and retired with no other children or family in Iran. Your children are permanently settled in the UK and have no intention to leave themselves.***"

19. Whilst. of course, an Entry Clearance Officer must be astute not to be persuaded by the dishonest or the unqualified applicant, against this background it is, in my judgement, not possible rationally to say, that the applicant has not shown on the balance of probabilities that she is likely to leave at the end of her visit,

20. The ECO was particularly concerned about the economic position it appears, and the incontrovertible evidence was that the applicant had substantial economic ties: not only her own house, but rental properties situated there. She was an independent woman, with property and an income. She had lived independently (there was no evidence her daughters in UK supported her). She also had relations whom she saw regularly: this evidence and the reiteration of the position (not expressly denied by the respondent) that she had done and would be able to fend for herself adequately in Iran, were reinforced in the second PAP letter.

21. The evidence also suggested there was a good reason for any previous estrangement between herself and her daughters: she was divorced from their father, who had obtained asylum in the UK. The evidence from the daughters spoke of a previously oppressive relationship with their father who had forbidden contact with the mother. This was substantiated by medical evidence from one of the daughters. The evidence also showed the sponsoring daughter, (both daughters are established UK citizens), had a good job and her own accommodation, undertook to ensure their mother would leave at the end of the visit, and would be accommodated and sustained in the course of its

22. The Rules and the Guidance direct the Officer to considerations of ties to the home country, and to personal ties. There was in my judgement no cogent reason for rejecting the material he was presented with as showing that it was more likely than not that she would leave at the end of her visit.

23. The basis of the second decision from the ECO would appear to be (although it is unclear in my judgement):

    a. I reject the proposition that you have shown me significant ties to your home country by demonstrating that you own a property and you rent out 2 units because you can receive rental income internationally, and

    b. Your income is less than a person would live on in the UK and your daughters are here so I think you are unlikely to leave.

24. As to (a) this is in my judgement irrational. The evidence proffered was of substance, was by its nature, immovable assets, and common sense dictates, requires input from the applicant or at the very least is most unlikely to be abandoned by her which an intention not to leave at the end of a visit implies.

25. As to (b), this is also, without more, without logical foundation. It would in my judgement, otherwise be impossible for any mature person to visit their children settled abroad in circumstances where, although financially independent and with not insignificant property in the home country, he/she could not say, as the rules perhaps suggest that they ought, that he/she was returning to employment, or studying on some course.

26. In my judgement the correct analysis is that the Entry Clearance Officer made an error of law in that he was applying too high standard of proof: it is the balance of probabilities, he is not required to be persuaded so that he is "sure". The ECU has to judge whether the Applicant has shown him it is more likely than not that they are a genuine visitor who will leave the UK at the end of their proposed visit.

27. This was not a case with an adverse immigration history to take into account. Nor was it a case that suggested the applicant had little or nothing to return for to her home country.

28. By the time the second decision had been made, and the SSHD had maintained it, it could not rationally consider that the applicant, a first-time visitor, did not have long-term commitment to her home country. She had by that stage produced evidence of

    a. her ownership of her own home property

    b. two additional revenue producing properties,

    c. an adequate income, which included a pension, in Iran

    d. health insurance in Iran

    e. apparent solvency — as demonstrated by her bank accounts

    f. emotional/religious attachments to her home country, where her parents were buried, whose grave she visited weekly

    g. 7 sisters and a number of nieces living there whom she met regularly.

29. There was, further, nothing in the applicant's past nor pertaining to her family here to suggest that her claim to be a visitor was merely a lie. The applicant had previously made one failed application for entry clearance in 2016 but that application was refused on 19 September 2016, at a time when she was legally unrepresented and had been told she had failed to include supporting documentation to evidence her life in Iran and produce appropriate evidence of her ties to the country.

30. I share the approach taken to this matter at the permission stage where it was said succinctly by UTJ Hanson as follows, after having set out that the relevant part of the guidance:

> "*The only example relevant to this applicant is that she has no family in Iran, but it was demonstrated the applicant has an income sufficient to meet her needs together with property and therefore has economic ties. This is not a mandatory ground for refusal and reflects earlier jurisprudence of the tribunal in* ***Ogun Koehler v ECU [2002] UK IAT 2238*** *in which it was found that if lack of economic incentive to return to the country of origin sufficient to found the refusal of the visit application "then no person living overseas where the standard of living was lower than that prevailing in the UK could ever come on holiday here, or visit a relative settled here. That is not the law".*
>
> *In relation to strength of ties it was found in* ***A (Nigeria) [2004] UK IAT 19*** *that it was not a requirement to the rules that a person should have strong ties with their country of nationality but was simply a fact that could be taken into account when determining the applicant's intentions although decision-maker had to show why he or she thought it was an important point of that was the case (sic).*
>
> *The decision appears to be predicated upon suspicion in the mind of the ACO without more. In* ***Mohammed Olly TH/13048/86*** *it was found that simple suspicion, itself, is not enough to undermine the credibility of an applicant but the cumulative effect of a series of such matters, each only suspicions, may give rise to more than "mere suspicion".*"

31. I agree, in particular with the observation that if and to the extent that the differential between standards of living in Iran and the UK was the foundation or part of it of this decision, it is on its own insufficient to impugn this applicant's credibility.

32. It is the case that that no other reasons for refusal have been cited by the ECO, and a properly reasoned decision would have set out what other matters were relied upon if any were. One must deduce there were no other substantive reasons for the refusal.

33. I asked the SSHD's representative at the hearing of this matter what other evidence it would have been possible for an applicant in this position to produce in order to persuade the ECO that she was genuine, and in fairness to him, he was unable to suggest any material. Whilst that is not, in logic, an answer to the

legal question of whether there was a reviewable error, that answer does prompt closer investigation of the decision-making in this case.

CONCLUSION

34. I agree with the SSHD that the foundation of the decision was, in truth, a failure to be satisfied that this applicant would return to Iran. However, that conclusion had to be justified in the face of the evidence of the financial and property position as shown him in Iran and in light of the Guidance which illustrates how such matters may be illustrated by an applicant. As explained above, in my judgement the ECO made an error of law which may be variously expressed:

    a. His decision was on the evidence, irrational and/or

    b. He failed properly to take into account the substantial evidence of the applicant's incentives to return to Iran

    c. He applied too high a standard of proof when judging whether she had satisfied him that she would return after a visit to the UK

35. The Application for Judicial Review is granted.

UTIJR6

JR/ 4162/ 2019

Upper Tribunal
Immigration and Asylum Chamber

Judicial Review Decision Notice

The Queen on the application of
SEYEDEH [G]

Applicant

v

Secretary of State for the Home Department

Respondent

Before The Honourable Mrs Justice Foster DBE

Application for judicial review: substantive decision

Having considered all documents lodged and having heard the parties' respective representatives, Mr Adeel Malik, of Counsel, instructed by RP Singh Solicitors, on behalf of the Applicant and Mr Benjamin Seifert, of Counsel, instructed by the Treasury Solicitor, on behalf of the Respondent, at a hearing at Field House, London on 20 February 2020, and for reasons in writing promulgated to the parties on 24 February 2020

Decision:

(1) **The application for judicial review is granted**

(i) **The decision of the ECO dated 29 May 2019 and**

(ii) **The decision by the Respondent contained in her letter dated 27 June 2020 maintaining the ECO's decision of 29 May 2019**

are quashed

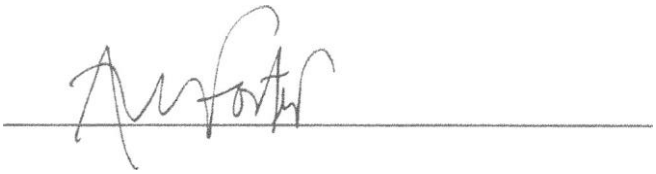
(2) **The Respondent do pay to the Applicants the costs of the Application assessed in the amount of £7,365.80 within 14 days of the service of this Order**

Order

I therefore make an Order quashing the Respondent's decisions dated 29 May 20129 and 27 June 2020

Permission to appeal to the Court of Appeal

I refuse permission to appeal to the Court of Appeal because this was a straightforward decision based on its own facts, raising no separate points of principle or practice. It is not arguable that there is a case to be made on these facts on appeal

Signed: 

THE HONOURABLE MRS JUSTICE FOSTER DBE

Dated: **24 February 2020**
(signed 12 March 2020)

Applicant's solicitors:

Respondent's solicitors:

Home Office Ref:

Decision(s) sent to above parties on:

Notification of appeal rights

A decision by the Upper Tribunal on an application for judicial review is a decision that disposes of proceedings.

A party may appeal against such a decision to the Court of Appeal **on a question of law only**. Any party who wishes to appeal should apply to the Upper Tribunal for permission, at the hearing at which the decision is given. If no application is made, the Tribunal must nonetheless consider at the hearing whether to give or refuse permission to appeal (rule 44(4B) of the Tribunal Procedure (Upper Tribunal) Rules 2008).

If the Tribunal refuses permission, either in response to an application or by virtue of rule 44(4B), then the party wishing to appeal can apply for permission from the Court of Appeal itself. This must be done by filing an appellant's notice with the Civil Appeals Office of the Court of Appeal **within 28 days** of the date the Tribunal's decision on permission to appeal was sent (Civil Procedure Rules Practice Direction 52D 3.3).