



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: HU/14779/2019

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 8 October 2021**

**Decision & Reasons  
Promulgated  
On 6 January 2022**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**LIAQAT ALI**

(anonymity direction not made)

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr E Mavrantonis, Counsel instructed by ALC Solicitors

For the Respondent: Mr S Whitwell, Senior Home Office Presenting Officer

Interpreter: Mr Tahir Mahmood and Mr Yashab Tamanna

**DECISION AND REASONS**

1. This is an appeal against a decision of the Secretary of State on 30 August 2019 refusing the appellant leave to remain in the United Kingdom. This appeal has previously been determined unsatisfactorily and I set aside the decision of the First-tier Tribunal and promulgated my reasons on 6 October 2020.
2. As I explained there, it is the appellant's case that he has lived in the United Kingdom continuously since August 1996 and has accumulated over twenty

years' continuous residence in the United Kingdom and so should be allowed to remain. The Secretary of State did not believe him.

3. It is a feature of the case that the appellant has run this argument previously and unsuccessfully as recently as 14 December 2018 before First-tier Tribunal Judge Richards-Clarke in an appeal against an earlier refusal. I begin by considering that decision made in response to the material produced before that judge.
4. Judge Richards-Clarke heard oral evidence from the appellant, from a Mr Mohamed Anwar, a Mrs Shubana Anwar, a Mr Irfan Anwar and a Mr Shamim Anwar. The judge also reviewed the documentary evidence before her. It is right to say that although the judge's decision only made sense if she disbelieved the appellant, the judge's adverse finding was based more on gaps in the supporting evidence rather than a conclusion that the evidence as a whole was dishonest. She did comment adversely on strands of evidence being "contradictory" [paragraph 26] but I set out below paragraph 27, which is, I find, the pivotal paragraph. The judge said:

"In my consideration I do take account of the evidence of the Appellant's witnesses and their willingness to attend the Tribunal hearing as witnesses for the appellant. That said, I do not consider that the witnesses are able to assist the Tribunal as evidence that the Appellant's residence in the United Kingdom has been continuous since 1996. This is because it was the evidence of Mr and Mrs Anwar that the appellant only carried out work for them during the summer months and there would therefore be gaps of around six months when they did not see the appellant. Mr Irfan Anwar's evidence was that since 2005 he has seen the appellant two - three times a month and it was the evidence of Mr Shamim Anwar that he has known the appellant since around 2013."
5. At paragraph 29 the judge went on to say that she was not satisfied that the appellant had shown it was likely that he has at least twenty years' continuous residence in the United Kingdom from 31 August 1996 to "date", that is until 11 December 2018.
6. Subsequently, on 26 April 2019, the appellant made an essentially similar application for leave. This was refused on 20 August 2019 and is the decision that is the subject of this appeal. I consider now the reasons given in the refusal letter of 20 August 2019.
7. The substance of the reasons for refusal begins at page 3 of that letter (61 in the bundle) where the respondent noted that the appellant claims to have entered the United Kingdom on 31 August 1996 but the Secretary of State had no record to confirm that. The respondent then reviewed documentary evidence that had been provided.
8. The appellant had provided a letter from Oasis Property Services dated 16 April 2010 saying how the appellant was a tenant from 1996 until 2010. The respondent pointed out that in the previous refusal letter dated 30 May 2018 "Equifax" checks at the address showed no evidence that he had lived there at all. The respondent then went on to say how "Equifax" checks conducted at three other addresses held on file for him showed no evidence that he had lived at those addresses and this persuaded the respondent that she should not "accept" the letter. I note that the respondent does not explain why checking

with “Equifax”, which I understand to be a credit agency, should be regarded as a sensible response to the letter sent.

9. The respondent then referred to a letter from the Barking Road Medical Centre dated 10 March 2010 stating that the appellant had been a private patient there from November 2000 to February 2010 and a letter from the Acton Muslim Welfare Association dated 17 April 2018 saying that he had been known to them for “the last eleven years”. These were said not to confirm twenty years’ residency in the United Kingdom, which at the time of writing, August 2019, was plainly correct but the letter makes no other criticism of the evidence. I must consider the evidence at the date of my decision. It is now more than 20 years since the letter from Barking Road Medical Centre was written.
10. The refusal letter then dealt with the appellant’s claim under Article 8 of the European Convention on Human Rights but I need not consider these reasons further because of a wholly appropriate concession made during submissions.
11. Before reviewing the oral evidence before me I consider the bundle containing 29 documents paginated 1 to 74 and prepared for the hearing before me. At page 15 there is a letter from Mubashar Khurshid, who described himself as the owner in residence of accommodation in Southall. He describes the appellant as his “tenant” who pays him £250 a month for shared accommodation. The letter is dated 5 January 2020 and he said he has known the appellant for more than a year. It is supported by a letter from a water company tending to confirm that the appellant is indeed in residence at the address given. At page 17 there is a letter from a Resham Singh Rattan of an address in Southall. The writer says that he has known the appellant since 2000. He met the appellant then because he painted the walls during a house refurbishment and did the job particularly well. According to the letter “we stayed in touch. I met with him every couple of months and I found him to be a friendly and polite person who is hardworking and committed to his work.”
12. Then there is a letter from the Jamia Masjid Islamic Centre dated 3 January 2020. This identifies the appellant as someone who is a “regular attendee of this Islamic Centre”. He is said to attend “all prayer services” and he “frequently joins in various religious programmes held at this Islamic Centre”. The Islamic Centre is at Townsend Road, Southall. The letter is signed by the chairman, a Mr M A Khawaja. I note that the letter does not help me understand what is meant by “regular” or for what period the appellant has attended “all” prayer services. There is a letter from a Mr S and Mrs I Anwar, who are married to each other. They say they have known the appellant for nearly seven years and that he is active in the community mosque. That letter is dated December 2019.
13. There is a letter from the Aisha Masjid and Islamic Centre dated 20 December 2019. This is a mosque in Reading and is signed by a Mr M A Kiyani. He has known the appellant for fifteen years as a community member and “throughout this period” he has been a member of Jamme Masjid in Reading. There was a letter from an official of the Shepherd’s Bush Mosque dated 16 January 2019 identifying the appellant as someone who helped with the paintwork in 2005.

14. There was a letter a Mr Mohammed Shafiq Chaudhary, who identifies himself as the owner of a building merchants at an address in Hayes. He first met the appellant in 1998 when he came into his shop as a customer wanting to purchase gardening tools. According to the letter the appellant “came to my shop regularly over the next few months after that and he has occasionally visited my shop a few times a year since then”.
15. Mr Chaudhary does not say why he remembers the appellant first coming in 1998.
16. There are medical notes from the Saluja Clinic relating to the appellant but they refer only to events in January 2018. However, they do refer to a “medication check” due in December 2014.
17. The letter from the Acton Muslim Welfare Association dated 17 April 2018 saying how the appellant has been known in the local Muslim community for the last “eleven years”.
18. There is another letter from the Jamia Masjid and Islamic Centre from Mr M A Khawaja. This one is dated 18 February 2017 and is very similar to the later letter from Mr Kahwaji. There is a letter from “The Best Properties (London) Limited”. This letter is signed simply “management”, the word appearing with an illegible signature. This confirms that he has rented a room “in the sum of £250.00” in the Forest Gate area in London between the end of December 2011 and August 2014. It confirmed that he had paid his rent as required and had taken care of the property.
19. There is a broadly similar letter from Ajha Estate, again signed “management”, that refers to the appellant working as a cleaner from May 2010 until March 2014.
20. There was a letter from a Sabeen Ghani of Oasis Property Services dated 16 April 2010 saying how the appellant has been “our tenant at 145a Charlemont Road, East Ham, London E6 6HD during 15/12/1996 to 31/03 2010”. He was renting one box room and, according to the letter, “residing at this property continuously from 15/12/1996 to 31/03/2010”. It is said he always paid his rent and he was a good tenant.
21. There is then (page 44) the letter from Dr Inayatullah described as a “principal general practitioner” although no medical qualifications are given. This is the Barking Road Medical Centre letter. It is said that the letter was issued at the request of the appellant, who:

“...attended this practice as a private patient between November 2000 - February 2010.
22. There is then a pair of photographs apparently showing the appellant in London. There are then a series of receipts but none of them expressly identify the appellant.
23. There are copy death certificates I think relating said to the appellant’s parents and then photocopies of passports.
24. There are documents in the respondent’s papers. Of particular interest, at B2 in the bundle, is a copy of a passport issued by the government of India to the appellant. This indicates an earlier passport expired on 25 August 2017. That

passport had been issued in London. The appellant's then current passport was issued on 4 December 2017 and was valid until 3 December 2019. Again it was issued in London. I assume that it was only valid for two years for some reason connected with it being issued in London but I had no evidence about that and I might be wrong. It shows the following endorsement: "The holder previously travelled on passport number [given] dated 26/08/2017 issued at London which has been reported lost."

25. I cannot avoid noting that the missing passport would have been an interesting document. It would not have proved the appellant's presence in the United Kingdom but it might have identified absences from the United Kingdom and could have been used as a measure to test the appellant's contention that there were no absences and that he has not travelled. However, whilst it might, in a sense, be thought convenient from the appellant's point of view to have lost his passport, I also know that people do lose passports and that I must not just assume that the passport was deliberately misplaced because it undermined the appellant's case.
26. I consider now the oral evidence before me.
27. The appellant gave evidence and adopted his statement of 22 September 2021.
28. In outline he identified himself as a national of India who was born in 1971. He repeated his contention that he had entered the United Kingdom irregularly on 31 August 1996, having travelled through Iran and France. He hid in a lorry and was met by an agent in Dover who arranged for him to be taken to the East Ham area of London where he stayed for three months.
29. The appellant said that he had not left the United Kingdom since he arrived and had lost all contact with his family and friends in India. His main contacts were with his parents but his father died in April 2000 and his mother died in January 2015.
30. He then said where he had lived in London, identifying addresses in East Ham, East London, Forest Gate and Southall. He said he had made a lot of friends in the United Kingdom.
31. He said that he had attended Acton Mosque "regularly" since his arrival in the United Kingdom and that the trustee who wrote a supporting letter had only known him since 2007.
32. He began work in November 1996 as a decorator and "odd job" worker.
33. He felt he had adapted to life in the United Kingdom and wanted to remain there.
34. He said he would encounter major problems in the event of his return. He had been separated from his wife for over twenty years and the marriage had irretrievably broken down but they had not divorced.
35. He was critical of the respondent relying on Equifax checks. He said he had no right to be in the United Kingdom. He certainly was going to try and register on the electoral roll. It was "hardly surprising" that there was little known about him.

36. He referred to letters which he said helped his case.
37. The most helpful letter, from the Barking Road Medical Centre, could not be improved with further evidence from the doctor because the surgery has closed down.
38. He talked about how Shamim Anwar had been a very supportive friend in the United Kingdom and helped him when he was in need because of poor health. He said he could not re-integrate into India. He had strong support networks in the United Kingdom but nothing in India.
39. He was cross-examined.
40. He produced photographs tending to show he was in the United Kingdom in around 2005. He could not be more precise about the date.
41. He said that he did not have a bank account when he worked in India in 1994 but then appeared to suggest he had a dormant account in India. He was asked if his estranged wife could confirm when he left India but he would not answer that question, simply saying that he came in 1996. He then said he had no contact with her.
42. He said that he obtained his father's death certificate in April 2000. This clearly could not be right because the death was not registered until November 2003. This was pointed out to him and he said he needed it when he came to the United Kingdom.
43. Mr Whitwell put it to the appellant that it was puzzling that he did not apply for leave to remain until 2017 when, if he were telling the truth, he would have qualified for leave based on long residence under the less arduous Rules applicable in 2010. He said he was not sufficiently educated to understand that that option was available to him. He had said he came in 1996 but people kept scaring him off, saying that if he applied for residence he would be deported.
44. He was asked why people who supported him on the previous occasion are not supporting him in the instant appeal. He said one of his supporters was feeling unwell and the other was too busy with work. He was asked about his work for Mr Mohamed Anwar and his wife. He described the property in a way which seemed consistent with the other evidence. He said he was paid £25 a day most of the time he did work.
45. He was then asked about working for Mr Rattan in Southall Road. He was doing mainly painting work there. He did not supply any of his own materials. He was paid cash for labour.
46. Mr Whitwell asked the appellant what was the longest period that had elapsed without him seeing Mr Rattan. I have reflected carefully on this question because it seemed to cause enormous consternation on the part of the appellant but I do not understand why it was difficult. He replied eventually "only four weeks". When I asked him if he meant that he had seen Mr Rattan every four weeks since 2000 he said "sometimes a month and a half".
47. He was then asked about Mrs Iqbal. He met her in 2005. He had done work for her daughter in 2000 in Canada Water. He met her husband a year earlier in

2004. He said he went to Friday prayers in the mosque in Alexandra Road in Reading and people knew he was looking for work.
48. He was asked to explain why he had no more documents to prove his claim to have been in the United Kingdom now for 25 years. He gave no detailed explanation for saying he did not have many documents.
  49. Shubana Jabeen Anwar gave evidence adopting her statement of 20 September 2021.
  50. She said how she was working as a company secretary for her husband's business and she knew her husband first met the appellant in the local mosque in 1996 when he was looking for odd jobs. He proved to be reliable and they found him more work. She said how the appellant had become "like a family member" and had been supportive when her mother had died and also when her husband's mother had died.
  51. Particularly helpfully she said that the appellant was given the keys to check on the house when she and her husband went away and said: "He has been doing this religiously since 2006 until now. We take a few short trips each year and he has been our keyholder since."
  52. When she was asked if she accepted that the appellant should not be in the United Kingdom she confirmed that she understood that. She was asked for how long she had known that and said she realised quite soon after they first met that he did not have a right to be in the United Kingdom. It was said that she had changed her evidence because previously she had said he had only done jobs in the summer months but now said he had done jobs throughout the year. She said that she did not regard him as a winter worker but he did garden work throughout the year. Her earlier statement was checked and there did not seem to be material differences.
  53. She was asked the longest time that had elapsed without her seeing the appellant. She said until Lockdown the longest period was two weeks. It was pointed out that the applicant had given a different answer and said it was three to four weeks and the previous judge had referred to a gap of "six weeks". She said that she thought about two weeks was right.
  54. She accepted that she was paying less than she had expected to pay for a person regularly in the United Kingdom.
  55. Mr Irfan Anwar gave evidence adopting his statement of 20 September 2021, it is at page 7 in the bundle. He described himself as a friend of the appellant and said they met at a mosque in East London in 2005 and had been in regular contact with each other ever since about one or two times every week.
  56. He said they speak by telephone regularly about twice a week. In 2018 he moved from East London to Surrey and they met two or three times a week for lunch and sometimes tea at nearby cafés. They generally chat because they were friends.
  57. He was cross-examined. He said that he had not seen him very much after 2018 when he moved to Surrey although they continued to speak frequently. He was asked to state the longest time that had elapsed without him seeing the appellant and he too seemed to find this a very difficult question to answer.

58. Mr Shamim Anwar gave evidence adopting his statement of 22 September 2021. He said that he first met the appellant in 2012 in a mosque in Stoke Poges. They were introduced by a friend of Mr Anwar's.
59. The appellant and Mr Anwar quickly became friends and in time he introduced the appellant to his family.
60. He said that in November 2018 the appellant alerted him that he was appealing a decision to the First-tier Tribunal. He went to a lot of trouble to attend and give evidence and indeed drove the appellant to the hearing centre in Wales. As a result of the drive he got to know that the appellant had dental problems and he was able to introduce him to someone who could help.
61. He then said how he and the appellant would speak two or three times a week and meet regularly for lunch or snacks in local restaurants. He said that the longest time that had elapsed without him actually seeing the appellant since they first met was three or four weeks.
62. Mr Resham Singh Rattan gave evidence adopting his statement of 21 September 2021.
63. He said that he met the appellant in 2000. He was looking for a painter because he was refurbishing his house and did suggest that the appellant would help. The appellant visited and he gave him some work and he liked the way he did it, so he gave him more work. As well as painting and decorating he used to do some work lifting and carrying furniture. On occasion he lent the appellant £200 and he was impressed by the appellant's honesty.
64. He denied suspecting that he was in the United Kingdom without permission.
65. He claimed to remember the colour of the paint that was first put on, referring to a white ceiling and magnolia walls. He was reluctant to say whether he thought the price he was paying was cheap. I found this claim contrived. I can think of no good reason why the witness would remember now the paint shades that he chose in the year 2000.
66. Zahida Iqbal gave evidence adopting her statement of 21 September 2021.
67. She said that she and her late husband had known the appellant for the past twenty years. Her husband had now died. She was born in Pakistan. She said she had studied accountancy and in answer to questions from me she said she held the qualification ACCA, that she was a chartered accountant but that she did not have a practising certificate. She was closing down her practice with a view to retirement.
68. She said that the appellant had become friends and she invited him to their house for dinner. There were prolonged periods when she had not seen the appellant but that was because there was no reason for her to see him It was not evidence that he had left the United Kingdom.
69. Samia Iqbal gave evidence adopting her statement of 21 September 2021. She said that she was a chemical engineering graduate from University College London now working as a secondary school teacher.
70. She married in September 2000 and was planning to move to an apartment in London which needed renovation. She was looking for a handyman and the



appellant was recommended by her father-in-law, Mr Mohammed Iqbal, an accountant. She said the appellant worked conscientiously and she trusted him. He worked for three days whilst she was setting up the house. They did not meet again until she moved to Reading and lived with her parents. By then her father had got to know the appellant better through the Alexandra Road Mosque. She said the appellant would join them socially at her mother's and father's family home.

71. She was cross-examined.
72. She denied any suspicion about his immigration status because her father dealt with it and paid him.
73. I have found this case surprisingly difficult to resolve.
74. I confirm that I have considered all of the material before me. It is for the appellant to establish his case. He must prove any facts on which he intends to rely on the balance of probabilities. This is a human rights appeal but no-one suggests that removing him would not interfere with his "private and family life" (in his case private life only) or that it would be other than disproportionate to remove him or refuse him further leave if in fact he has been continuously resident for over twenty years because the law recognises that a person with that length of stay is entitled to remain. Mr Mavrantonis, helpfully and realistically, conceded that the appeal could not succeed on human rights grounds if the appellant was not believed about his length of stay. I am grateful to him for that concession. It is entirely appropriate because there are no features in this case other than long residence that work in the appellant's favour.
75. Mr Whitwell reminded me, rightly, that this is a case that has previously been determined properly and I must use that first finding as a starting point.
76. As I have explained above, the main point of contention for Judge Richards-Clarke was whether the appellant's residence has been "continuous".
77. I have given very little weight to the documentary evidence outline above, although it is of some assistance to the appellant it is unsworn and in some cases anonymous. It does not harm the appellant's case but it is not worth much on its own.
78. The evidence before me overall was not entirely satisfactory but, on reflection, I accept that the appellant has been in the United Kingdom for as long as he says. The people who had employed him had reason to remember the approximate occasion that they met and the evidence from Samia Iqbal is particularly helpful because she is likely to know when she married (September 2000) and the idea of her needing someone to help prepare the flat that would be her matrimonial home is extremely believable. Unless she is telling lies of a particularly bare-faced kind it follows that the appellant was in the United Kingdom before September 2000.
79. I found the other evidence about when the appellant first started working for the people who gave evidence in support of him to be roughly right. It was plausible if less than convincing.

80. I have also reflected on the evidence of the medical practitioner. It was never suggested that the letter was a forgery and if it is not a forgery it is a case of a medical practitioner saying that the appellant was known to the practice and reported every year for ten years or so.
81. Further, and importantly, because of the effluxion of time, the evidence in that letter places the appellant in the United Kingdom more than twenty years before I heard the appeal. That was not the case when Judge Richards-Clarke decided the appeal.
82. None of these things prove the appellant's case conclusively. It is entirely possible that he was going away from the United Kingdom for long periods of time and still being a patient of the practice but it also tends to confirm that he was back at least once a year through that period.
83. The appellant's own account was unimpressive. He was vague for no obvious reason and gave a confusing account about his father's death certificate. On his own version of events he is someone who treats immigration control with contempt. I treat his evidence with considerable circumspection.
84. However I accept the evidence that the appellant became friendly with the people that he had worked for and they have kept in touch with him. That is a perfectly sensible explanation for them being able to come and give evidence for him. I have not heard from everyone he might have worked for over the last twenty or ten or whatever it is years.
85. I do not know why he did not claim a long residence entitlement sooner than he did. He might have been ignorant of his rights but whatever the reason, there is no evidence that he has not lived continuously in the United Kingdom at least since 2000 when he registered with the medical practitioner.
86. I do not accept as strictly accurate the recollection of the witnesses about the frequency of their contact with the appellant or the longest gap between contacts is reliable. If I had been told the truth the appellant's entire social life will be dominated by visits to former customers who he sees approximately every three weeks. I do not suggest that people have lied in the sense of telling calculated known untruths but in an effort to assist the appellant they have allowed their memories to be compressed. It just does not make sense to me that he would have so much contact with people who were former customers although I have no difficulty accepting that he sees them from time to time and certainly with sufficient frequency for someone who claims to have seen him frequently to have noticed a prolonged absence.
87. I am persuaded that the appellant has been in the United Kingdom for more than twenty years. The evidence of Ms Iqbal who recalled her wedding date and the evidence of the medical practitioner's letter is sufficient on that point.
88. It does not follow from this that the appellant's residence has been continuous but I have to consider carefully the alternatives. The appellant has either been in the United Kingdom continuously or he has left and returned. There is no evidence that he has left and returned. Foreign nationals are usually free to leave the United Kingdom but, broadly, need permission to enter it. Many do enter without permission but not without incurring some considerable risk of detection. I find it is very unlikely that the appellant has left and re-entered the

United Kingdom furtively and without leaving a record. There is no obvious reason for his wanting to leave and return or of how he could fund such trips away.

89. Certainly, the Secretary of State has done nothing to show that the appellant has left and returned to the United Kingdom even though it was clearly part of her case that might have been what was happening and even though it was very much in the mind of the First-tier Tribunal Judge who first dismissed the appeal.
90. The importance of the missing passport is exaggerated. If the appellant had been able to produce his passport and if, as he says is the case, it had not been used in the intervening period then the suspicious mind would have suggested that he had another passport or another identity. The fact that it has not been produced does not help his case but it is not positive evidence that he has told me anything untruthful.
91. When this case was last decided the main concern was that the appellant had not resided there continuously because of gaps in the evidence.
92. There was evidence before me that was not relied upon previously. That evidence puts the appellant in the United Kingdom at the relevant time but does not help very much to allay the suspicion that he has returned and re-entered. However return and re-entry is a difficult and expensive thing to do and the more credible evidence there is that the appellant was actually in the country visiting friends the harder it is to find an opportunity for him to have left and returned. Even allowing for some exaggeration on the part of people who claim to have seen him, it is hard to work out the appellant could have left the United Kingdom and not be missed.
93. This is a case where I am not allowed the luxury of indecision. There is evidence before me that was not before Judge Richards-Clarke and I have to consider a more recent time frame.
94. I find that it is probable that the appellant has been in the United Kingdom for over twenty years continuously and with that finding there is no public interest in his removal.
95. For the record, I note that he has established himself in the United Kingdom and has shown a willingness to work. This is not a man who will be a burden on public funds but the important thing is that he has established long residence.
96. This case has not been easy. I can only hope I have done the best that could be done on the material I have got.
97. In all the circumstances, I allow the appeal.

### **Notice of Decision**

98. This appeal is allowed.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 16 December 2021

