Neutral Citation Number: [2019] EWHC 721 (Admin)

Case No: CO/3456/2018

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28/03/2019

Before :

DAVID EDWARDS QC
(sitting as a Deputy Judge of the High Court)

- -

Between :

R (on the application of Muhammad Ertiza RIAZ)	**Claimant**
- and -	
THE SECRETARY OF STATE FOR THE HOME DEPARTMENT	**Defendant**

- -
- -

Ahmad Badar (instructed by **Connaught Law Ltd**) for the **Claimant**
Zane Malik (instructed by **the Government Legal Department**) for the **Defendant**

Hearing date: 20 March 2019

- -

Approved Judgment

David Edwards QC :

Introduction

1. This is the substantive hearing of the application by the Claimant, Muhammad Ertiza Riaz, for judicial review of the decisions made by the Defendant, the Secretary of State for the Home Department:

   i) on 24 August 2018 to detain Mr Riaz under immigration powers for the purposes of removal, and

   ii) on 28 August 2018 to curtail his family visit visa so that it expired with immediate effect.

2. Mr Riaz contends that his detention and the decision to curtail the leave provided for by his visa were unlawful. Mr Riaz was released on immigration bail on 13 September 2018, and so he was detained for a total period of 20 days. He claims damages for unlawful detention. Since his release, removal directions have been withdrawn.

3. On 26 October 2018 permission to apply for judicial review was refused on paper by Jeremy Johnson, QC (sitting as a Deputy Judge of the High Court) on the ground that any challenge to his historical detention was more appropriately brought by a private law claim in the County Court.

4. The application for permission was renewed by Mr Riaz on the basis that there was a live issue as to whether he had been working in breach of his visa conditions – the basis upon which he was detained and his leave was curtailed – such that the proceedings in this court were not academic. At an oral renewal hearing on 23 November 2018, John Howell, QC (sitting as a Deputy Judge of the High Court) granted permission for this judicial review to proceed.

Background

5. The background appears from the chronology included in the trial bundle. It can be shortly stated.

6. On 26 July 2018 Mr Riaz, who is 20 years old, was issued with a 6-month family visit visa valid until 26 January 2019. He entered the United Kingdom on that visa on 9 August 2018. The terms of that visa included a condition restricting his employment which precluded Mr Riaz from working whilst in the United Kingdom.

7. On 24 August 2018 Mr Riaz was encountered at a shop called “Super Tech” in Barking, London IG11 7PG by Immigration Officers who considered that he was working in breach of his visa conditions. He was detained under immigration powers, the IS.91R – Reasons for Detention form recording, amongst other things, that he had failed to comply with conditions of his admission – the condition precluding him from working. Detention was said to be appropriate because he was likely to abscond, because there was insufficient reliable information to decide whether to grant him immigration bail, and because his removal was imminent.

8. On 28 August 2018 Mr Riaz was issued with a RED.0001 form, explaining that a decision had been made to curtail his leave so as to expire with immediate effect on the ground that he had been working in breach, which was stated to be a breach of his visa conditions and also an offence under section 24(1)(b)(ii) of the Immigration Act 1971 ("the 1971 Act"). The form said that, as he no longer had leave to remain in the UK, he was liable to removal and was subject to removal without further notice after 17:00 on 3 September 2018.

9. On 28 August 2018 Mr Riaz's solicitors sent a pre-action protocol letter to the Secretary of State protesting Mr Riaz's detention and the revocation of his leave on the ground that Mr Riaz had not, in fact, been working when he was encountered by Immigration Officers. The Judicial Review Claim Form was filed a few days later on 31 August 2018.

10. On 8 September 2018 the Secretary of State cancelled removal directions after Mr Riaz had refused to leave the detention centre. Mr Riaz was, as I indicated in paragraph 2 above, released on immigration bail on 13 September 2018.

Statutory Provisions

11. I will turn to the issues between the parties in a moment, but it is convenient first to set out the relevant statutory provisions and immigration rules.

12. Sections 3 and 4 of the 1971 Act and Rule 8 of the Immigration Rules ("the Rules") provide for the granting of leave to enter the United Kingdom to those not otherwise entitled to enter and give power to an Immigration Officer to grant leave for a limited period and subject to conditions.

13. One of the permitted conditions is a condition restricting employment or occupation in the United Kingdom. Rule 6 of the Rules defines "employment" in the following way:

> "***'employment'*** unless the contrary intention appears, includes paid and unpaid employment, paid and unpaid work placements undertaken as part of a course or period of study, self employment and engaging in business or any professional activity."

14. Section 3 of the 1971 Act and Rule 323 of the Rules provide that, where leave is given, that leave may be subsequently be curtailed on a number of grounds. Rule 323 incorporates by reference the grounds contained in certain parts of Rule 322. One of those grounds is where the person granted leave:

> "[fails] to comply with any conditions attached to the current or a previous grant of leave to enter or remain."

Curtailment of leave to enter or remain under the Rules is, of course, discretionary not mandatory.

15. Section 10(1) of the Immigration and Asylum Act 1999 ("the 1999 Act"), as amended by the Immigration Act 2014 ("the 2014 Act"), confers a power on the Secretary of

State to remove persons from the UK. The amended language of the section states that:

> "A person may be removed from the United Kingdom under the authority of the Secretary of State or an immigration officer if the person requires leave to enter or remain in the United Kingdom but does not have it."

Prior to the amendment made by the 2014 Act, the relevant part of section 10(1) read:

> "A person who is not a British citizen may be removed from the United Kingdom, in accordance with directions given by an immigration officer, if–
>
> (a) having only a limited leave to enter or remain, he does not observe a condition attached to the leave or remains beyond the time limited by the leave;"

16. Section 10(7) of the 1999 Act provides that, for the purposes of removing a person from the United Kingdom:

> "… the Secretary of State or an immigration officer may give any such direction for the removal of the person as may be given under paragraphs 8 to 10 of Schedule 2 to the 1971 Act."

17. Section 10(9) of the 1999 Act provides that various paragraphs of Schedule 2 to the 1971 Act apply to directions given under subsection 7 as they do to directions under paragraphs 8 to 10 of Schedule 2. Amongst the paragraphs referred to is paragraph 16(2), which provides that:

> "If there are reasonable grounds for suspecting that a person is someone in respect of whom directions may be given under any of paragraphs 8 to 10A or 12 to 14, that person may be detained under the authority of an immigration officer pending—
>
> (a) a decision whether or not to give such directions;
>
> (b) his removal in pursuance of such directions.**"**

18. The important points for present purposes are two.

19. First, under section 10(1) of the 1999 Act the Secretary of State has power to remove a person from the UK if he or she requires leave to enter or remain but does not have it. That would include a situation where a person who initially had leave had had that leave curtailed.

20. Secondly, the Secretary of State's power to detain under paragraph 16(2) of Schedule 2 to the 1971 Act is available where the Secretary of State has "reasonable grounds for suspecting" that a person is someone in respect of whom removal directions "may" be given. It is not necessary that removal directions have already been, or inevitably will be, given; all that is required is that the Secretary of State has reasonable grounds for suspecting that they may be. See, confirming this, the

decision of John Cavanagh QC (sitting as a Deputy Judge of the High Court) in *R v Secretary of State for the Home Department ex p SW* [2018] EWHC 2684 (Admin) at [50].

21. The Grounds included in the Judicial Review Claim Form also referred to section 24(1)(b)(ii) and 24B of the 1971 Act, which create offences where a person who has been granted leave to enter or remain in the UK subject to conditions fails to observe those conditions, including conditions which preclude him or her working.

22. Mr Riaz is not being prosecuted (or if he is, he is not being dealt with by me) for an offence under either of those two sections, and I therefore do not set them out. I simply observe that, as well as requiring that the individual has worked or failed to comply with the relevant condition, the sections include a mental element: section 24(1)(b)(i) punishes "knowing" conduct, and section 24B offence requires that the individual "knows or has reasonable cause to believe" that he or she is disqualified from working.

The Issue

23. The issue presented in Mr Riaz's Grounds for judicial review – see in particular paragraphs 14 and 17 - is as to whether Mr Riaz was, in fact, working on 24 August 2018. Mr Riaz asserts that he was not.

24. The same issue is presented in the Renewal Grounds put before John Howell, QC, for the purpose of the renewed application for permission, which, in paragraph 12 (in response to the basis on which permission was refused on paper) said that:

> "… the issue of the Claimant 'Working in Breach' … remains live thus making it inappropriate for the matter to be deemed academic."

In paragraph 21 of the same document, and in the section describing the remedy sought, it was said that, failing a decision by the Secretary of State to withdraw the allegation of working in breach, I should declare that the allegation was unfounded; and that, on the basis that the allegation was unfounded, I should declare that Mr Riaz's detention was unlawful and award damages for detention.

25. I will turn to the evidence in a moment. But there is an issue, raised by the Secretary of State's detailed Grounds of Defence, as to the relevant question and as to the appropriate test.

26. Mr Malik, who appears for the Secretary of State, says that the issue of whether Mr Riaz was working in breach of the conditions of his visa is not an issue of precedent fact, to be determined by the court itself, but an issue to be determined by the Secretary of State through his immigration officers, susceptible to challenge only on conventional public law principles.

27. Mr Malik referred me to two authorities in this regard:

i) the decision of the Court of Appeal in *R v Secretary of State for the Home Department ex p Giri* [2015] EWCA Civ 784 at [19] *per* Richards LJ; and

ii) the decision of the Upper Tribunal (Immigration and Asylum Chamber) in *R v Secretary of State for the Home Department ex p Miah* [2016] UKUT 23 (IAC) at [33] where Mr Justice Blake, albeit obiter, accepted a submission that, under the new statutory regime created by the 2014 Act (i.e., the changes to section 10 of the 1999 Act effected by the 2014 Act), a decision to curtail leave on the basis of a breach of conditions was:

> "an immigration decision taken under the rules … [which] can only be challenged on conventional public law principles rather than by way of precedent fact."

As the authors of Macdonald's *Immigration Law and Practice* (9th ed.) observe at 17.3, the substituted power created by the 2014 Act is very differently conceived and, in sharp contrast to the prior version:

> "… no consideration is necessary as to how the person came to be in the situation of requiring leave but not having it".

So, Mr Malik submitted in paragraph 14 of his skeleton argument:

> "The issue before the Court is whether <u>it was open</u> to the Secretary of State, on the information that was then available, to conclude that the Claimant was working in breach of his immigration conditions" (my emphasis).

28. Although the Grounds for judicial review and the renewal grounds appeared to suggest the contrary, I understood from paragraph 2 of his skeleton argument that Mr Badar, who appears for Mr Riaz, accepted the issue of whether or not Mr Riaz was working was *not* an issue of precedent fact. In response to my questions, Mr Badar confirmed that this was his position near the start of his oral submissions.

29. The question is, thus, not whether the conclusion the Secretary of State reached, that Mr Riaz was working in breach of the conditions of his leave, was right or wrong, but whether it was irrational or *Wednesbury* unreasonable. The answer to that question will determine whether the Secretary of State's decision as 28 August 2018 to curtail Mr Riaz's leave was unlawful.

30. So far as the earlier decision on 24 August 2018 to detain Mr Riaz is concerned, the question is a slightly different one: under paragraph 16(2) of Schedule 2 to the 1971 Act, whether Secretary of State had:

> "… reasonable grounds for suspecting that [Mr Riaz] is someone in respect of whom [removal] directions may be given"

31. As the judgment of this court in *ex p SW* (above) demonstrates, the fact that, at the date of his detention, Mr Riaz's leave had not been actually been curtailed and removal directions had not actually been given was no bar to his detention, if the Secretary of State had reasonable grounds for suspecting that those things might happen.

32. But the only point made on behalf of Mr Riaz is that, as Secretary of State did not have reasonable grounds for believing that Mr Riaz was working in breach of the conditions of his visa, the Secretary of State cannot have had reasonable grounds for suspecting that Mr Riaz was someone in respect of whom removal directions might be given. The point is, thus, in practical terms, the same.

33. Reference was made in the Secretary of State's Detailed Grounds of Defence and skeleton argument to *R v Governor of Durham Prison ex p Hardial Singh* [1983] EWHC 1 (QB) and *Lumba v Secretary of State for the Home Department* [2011] UKSC 12 and to the well-known principles derived from those cases, namely that, for detention to be lawful:

    i) the Secretary of State must intend to remove the person and can only use the power to detain for that purpose;

    ii) the person may only be detained for a period that is reasonable in all the circumstances;

    iii) if, before the expiry of the reasonable period, it becomes apparent that the Secretary of State will not be able to effect removal within that reasonable period, he should not seek to exercise the power of detention; and

    iv) the Secretary of State should act with reasonable diligence and expedition to effect removal.

    Mr Badar confirmed, however, that no separate complaint was made about Mr Riaz's detention by reference to those principles.

Was the Secretary of State's decision on 28 August 2018 to curtail Mr Riaz's leave irrational?

Did the Secretary of State have reasonable grounds for suspecting that removal directions might be given in respect of Mr Riaz when he was detained on 24 August 2018?

34. It was accepted that these questions fall to be considered by judging the Secretary of State's decisions against the evidence and information available to him (through his immigration officers) at the time those decisions were taken.

35. That evidence and information comprised the observations made by the Secretary of State's immigration officers when they attended Super Tech on 24 August 2018, and what Mr Riaz said to them when they spoke to him on that occasion. The trial bundle included a witness statement from Assistant Immigration Officer (AIO) Andre Sinclair who, with Chief Immigration Officer (CIO) Miah, attended the premises on that date. His statement, dated 28 August 2018, was said to be prepared on the basis of his recollection of the events (four days previously) and the notes in his notebook; the relevant pages of the notebook were disclosed and tallied with the content of AIO Sinclair's statement.

36. Plainly, Mr Riaz's evidence as to what transpired on 24 August 2018 is also relevant. I received two witness statements from him in that regard, one dated 28 August 2018 served with the Judicial Review Claim Form, and the second dated 20 February 2019, which was served following receipt of the Secretary of State's detailed Grounds of Defence.

37. The bundles, however, also included three further witness statements served on behalf of Mr Riaz, each dated 20 February 2019:

    i) a statement from Nabeel F Gujjar, the owner of Super Tech;

    ii) a statement from Asif Hussain: he was apparently covering the shop during the week commencing 20 August 2018 because Mr Gujjar was abroad; Mr Riaz was staying with him and his wife and child at the time; and

    iii) a statement from Hafiz Muhammed Shoaib, an employee of Super Tech.

38. The Secretary of State did not, however, have these statements or the information set out in them at the time he made the decisions under challenge, nor were any of the makers present at the shop at the time when Mr Riaz was seen and was detained. In my judgment, they are irrelevant. Mr Badar sensibly made no reference to them during his oral argument.

39. There were some disparities as to the events on 24 August 2018 between AIO Sinclair's statement and Mr Riaz's two statements, in particular in relation to whether Mr Riaz had been seen by CIO Miah to accept money from a customer whilst the immigration officers were in the shop, an observation which was recorded in AIO Sinclair's notebook. Mr Badar submitted that no statement had been produced from CIO Miah; that the contents of the note and AIO Sinclair's statement in this respect were hearsay; and that, whilst they remained admissible, little weight should be attached to them.

40. I was reminded by Mr Malik in relation to these evidential matters of the guidance given by this court in *R v Secretary of State for Health ex p McVey* [2010] EWHC 437 (Admin) as to the proper approach to disputed evidence in judicial review proceedings. In the case in question, there was a factual dispute about exactly when the decision under challenge had been taken. At [22] to [34] Silber J referred to a number of previous authorities that had considered this issue, the effect of which he summarised at [35] as follows:

> **"**35. In my view, the proper approach to disputed evidence is that:-
>
> i) The basic rule is that where there is a dispute on evidence in a judicial review application, then in the absence of cross-examination, the facts in the defendant's evidence must be assumed to be correct'
>
> ii) An exception to this rule arises where the documents show that the defendant's evidence cannot be correct; and

> iii) The proper course for a claimant who wishes to challenge the correctness of an important aspect of the defendant's evidence relating to a factual matter on which the judge will have to make a critical factual finding is to apply to cross-examine the maker of the witness statement on which the defendant relies."

41. I approach the issues in this case on this basis. No application was made by Mr Riaz to cross-examine AIO Sinclair on his statement, and unless the documents show that his evidence cannot be correct (which they do not), I accept it.

42. As to what that evidence shows transpired, there is a certain amount of common ground.

43. There is no dispute that Immigration Officers entered Super Tech on 24 August 2018, and that, when they did, they encountered Mr Riaz who was sitting on a chair behind the counter; there also appears to be no dispute that Mr Riaz was there alone – his own evidence is that he had been given the keys by Mr Hussain who was at Friday prayers.

44. AIO Sinclair's statement explains that Mr Riaz was asked for his passport or driving licence to confirm his identity and that he provided a Pakistani driving licence. AIO Sinclair contacted a colleague, IO Fairbrother, by telephone who conducted a check on Mr Riaz's immigration status which revealed that he had a six-month family visit visa valid to 26 January 2019.

45. According to AIO Sinclair's statement, he (AIO Sinclair) then:

> "… explained to [Mr Riaz] that working on a family visit visa is a breach of his visa conditions."

46. Mr Riaz stated that he did not work and was asked some questions by AIO Sinclair. The questions and answers, recited in the statement and recorded in AIO Sinclair's notebook included the following:

> "Q. How many days a week do you help?
>
> A. Five days a week.
>
> Q. What time do you start and leave when you help?
>
> A. 10/11am for about ¾ hours a day or when my friend comes and picks me up.
>
> Q. Do you get paid?
>
> A. No, I don't get paid.
>
> Q. Does he pay for you living expenses, living or food?
>
> A. No. Just sometimes he buy's [sic] me lunch, but I'm a family friend.

…

Q. Your manager has left, who's closing the shop?

A. I will at 2pm to pray, then I will come back and open back up.

Q. So what do you do for [Mr Hussain]?

A. I look after the shop to make sure no-one steals anything."

47. Immediately after these questions, AIO Sinclair's notebook contains an entry which reads:

> "He was seen collecting payment by CIO Miah from a customer"

The record in his notebook, and the evidence to the same effect in his statement, obviously reflect what AIO Sinclair was told by CIO Miah about an observation made by CIO Miah at the time.

48. The note later records that Mr Riaz said that he didn't work or receive payment but that he had been seen collecting cash. Mr Riaz was subsequently arrested and cautioned; a subsequent search found that he had £600 in cash in a wallet or in his pockets.

49. Mr Riaz's second witness statement said that the allegation, that he had taken money from a customer, was incorrect; he said that the shop till was locked by Mr Hussain before he left the premises, and that it was not possible for him to carry out a transaction or accept any cash.

50. The fact that the till was locked, if it was, would not, of course, preclude the Mr Riaz accepting cash, and, as I have noted above, a significant amount of cash was found in his possession when he was searched. In any event, there is nothing in the documents which show that AIO Sinclair's evidence about this cannot be correct and, consistent with the approach set out in *ex p McVey*, I accept it.

51. This being the information the Secretary of State had on 24 August 2018, when he decided to detain Mr Riaz, and on 28 August 2018, when he decided to curtail Mr Riaz's visa, the argument, that the Secretary of State did not have reasonable grounds for suspecting that Mr Riaz was someone in respect of whom removal grounds might be given and that his decision to curtail Mr Riaz's leave was irrational, is, in my judgment, untenable.

52. The position, in essence, is that Mr Riaz had been found sitting behind the counter in a shop which was open, and seemingly open for business; it could, no doubt, have been closed whilst Mr Hussain went to prayers, but it was not. No other shop staff were there. Mr Riaz said that he helped for around 3/4 of an hour every day; he was not paid (other than perhaps in kind, through the purchase of meals) but paragraph 6 of the Rules makes clear that the condition precluding employment applies to both

paid and unpaid work. Mr Riaz was given the keys to the shop, and, according to his answers, would close the shop when he himself went to pray at 2pm and would then come back and open it up. He said that was looking after the shop to make sure that no-one stole anything. He was seen accepting money from a customer and found in possession of a significant amount of cash.

53. On this basis, there were, in my judgment, on 24 August 2018 reasonable grounds for the Secretary of State to suspect that Mr Riaz was someone in respect of whom removal directions might be given. Equally, the Secretary of State's decision on 28 August 2018 to curtail Mr Riaz's leave was not irrational.

54. It remains for me to deal with two points.

55. First, in his skeleton argument, Mr Badar suggested that procedural errors had been made in relation to the manner in which Mr Riaz was interviewed on 24 August 2018 and in the way his interview had been recorded. He referred me to two Home Office Guidance documents:

i) "Enforcement interviews" (version v1.0 published on 12 July 2016); and

ii) "Arrest and restraint" (version v1.0 again published on 12 July 2016_.

56. Mr Badar took me to page 11 (of 26) of the first guidance document which, under the heading "Initial Administrative Interviews" said:

> "The following principles must be observed or considered during initial administrative interviews:
>
> - a caution should not be given for an initial administrative interview where questioning is intended to establish basic facts such as identity, relationships or ownership of property – but you must identify yourself and your purpose
>
> - where initial examination leads to reasonable suspicion that an administrative breach or criminal offence may have been committed by the person, they must be arrested and immediately given the administrative explanation or criminal caution as appropriate and as per instructions given within 'Arrest and Restraint' guidance."

(A further point concerning page 13 of this guidance was withdrawn by Mr Badar during his oral submissions.)

57. Mr Badar then took me to page 10 (of 45) of the second guidance document which, under the heading "Information to be given on administrative arrest" said the following (the underlining appears in the original):

> "A person who is administratively arrested under <u>paragraph 17 of schedule 2 to the Immigration Act 1971</u> as a person who may be removed from the UK must also be informed that:

> …
>
> You must also give the following explanation to the person:
>
> 'I am an Immigration Officer. I am arresting you on suspicion that you are a person liable to immigration detention. This is because I suspect you [give reason, eg 'have entered the UK illegally', 'have overstayed your leave', 'have breached a condition of your leave', and so on]. This is not an arrest for a criminal offence.
>
> Do you understand?
>
> You must record that you have given the above explanation in your pocket notebook (PNB) together with their confirmation of understanding."

58. Mr Badar said that, though Mr Riaz was cautioned when he was arrested on 24 August 2018 (on suspicion of having committed a criminal offence) the administrative explanation should have been given, but was not given, earlier in the interview, and there was no record in AIO Sinclair's notebook that Mr Riaz had confirmed that he understood the explanation. So, the guidance was not followed.

59. Secondly, Mr Badar criticised the questions asked of Mr Riaz by reference to the decision of the Upper Tribunal (Immigration and Asylum Chamber) in *R v Entrance Clearance Officer, Islamabad ex p Anjum* [2017] UKUT 00406 (IAC). It was said in that case that an interview might be unfair, rendering the resulting decision unlawful, where:

> "… inflexible structural adherence to prepared questions excludes the spontaneity necessary to repeat or clarify obscure questions and/or to probe or elucidate answers given."

60. Mr Malik's principal answer to both these points were that they were not open to Mr Riaz:

    i) they were not referred to in the Grounds included within the Judicial Review Claim Form, which, whilst criticising the Secretary of State's conclusions and decisions, made no complaint as to the fairness, or as to compliance with guidance, in relation to his interview;

    ii) no application had been made to amend those Grounds.

61. Both of these points are correct; whilst Mr Badar made the points I have summarised both in his skeleton argument and orally, at no stage did he apply or invite me to give him permission to amend his Grounds. In those circumstances, I agree that they are not open to him.

62. I should make clear, however, that, even if these points had been open to the Mr Riaz, I would not have decided on the basis of them that the Secretary of State's decisions to detain Mr Riaz and to curtail his leave to remain were unlawful.

63. A number of submissions were made by Mr Malik in this regard on the basis that, contrary to his primary submission, the points were open to Mr Riaz. In circumstances where I have determined that the points are not open, I do not propose to deal in this judgment with all of these submissions.

64. So far as Mr Badar's first point is concerned, however, Mr Malik pointed out that Mr Riaz was detained under paragraph 16(2) of Schedule 2 to the 1971 Act; he was not arrested under the separate power under paragraph 17 of Schedule 2 (although he was arrested on suspicion of committing a criminal offence and properly cautioned, as recorded in AIO Sinclair's notebook). The extract from the second guidance document relied upon by Mr Badar, Mr Malik said, was, on its terms, applicable only to a paragraph 17 arrest. The second bullet point in the first guidance document ("they must be arrested and immediately given the administrative explanation or criminal caution as appropriate") Mr Malik submitted, and I agree, was similarly applicable to paragraph 17 cases.

65. So far as Mr Badar's second point is concerned, although there can no doubt be cases where a decision may be unlawful because of obscure questions in the interview that proceeds it or because of a failure to probe answers, i.e., because of conduct rendering the process leading to the decision procedurally unfair, there was, in my judgment, nothing which would justify such a conclusion here. The particular question and answer criticised was as to the extent to which Mr Riaz "helped" Mr Hussain; but what Mr Riaz did and the extent of his responsibility in relation to the shop was clear from his other answers.

Conclusion

66. For the reasons set out above, this claim for judicial review is dismissed.

67. I invite the parties to agree an Order reflecting this judgment. I will deal with any consequential matters that cannot be agreed, including costs.