



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: HU/18439/2018

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 26th and 27th May 2022**

**Decision & Reasons
Promulgated
On 5th October 2022**

Before

**UPPER TRIBUNAL JUDGE HANSON
and
UPPER TRIBUNAL JUDGE MANDALIA**

Between

MRS KHADIJA AKHTAR

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Unrepresented

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

Background

1. The appellant is a national of Pakistan. She was granted indefinite leave to remain in the UK in June 2000. On 21st April 2016 the appellant was

convicted of various offences and sentenced to a total period of four years and three months imprisonment.

2. On 27th September 2016 the appellant was informed that in light of her convictions she is liable automatic deportation in accordance with s32(5) of the UK Borders Act 2007, unless one of the exceptions apply. The appellant made representations in response. The appellant was served with a decision dated 3rd August 2018 to refuse the human rights claim. The respondent concluded that there is no evidence or reason to believe that the appellant's removal to Pakistan, a country of which she remains a national and has visited several times in the past 15 years, would lead to a breach of the appellant's rights under any article of the ECHR.
3. The appellant's appeal against that decision was heard by First-tier Tribunal Judge Cox and dismissed for reasons set out in a decision promulgated on 6th June 2019. Permission to appeal was refused by the First-tier Tribunal and on renewal, by the Upper Tribunal. The decision of the Upper Tribunal was challenged in a claim issued in the Administrative Court (CO/3474/2019). Permission to claim judicial review was granted by His Honour Judge Stephen Davies on 26th November 2019 and the order of the Upper Tribunal was quashed by His Honour Judge Sephton QC on 13th January 2020.
4. The appeal to the Upper Tribunal was considered on the papers by the Vice President, Mr C M G Ockelton on 29th July 2020. He set aside the decision of First-tier Tribunal Judge Cox for reasons set out in his decision promulgated on 25th August 2020. He said:

“3. The First-tier Tribunal judge thought that the appellant had been sentenced to a term of imprisonment of more than four years and determined the appeal on that basis. It is far from clear why. It was an error, as a result of which the judge applied the wrong test to the question whether the public interest outweighed the appellant's article 8 rights.

4. I note what the respondent says but I do not consider that it can properly be deduced from the judges decision that she would have

reached the same view by applying the correct tests. I therefore set aside her decision for error of law.

5. The evidence has been taken. It is the assessment of its effect and the striking of the balance that needs to be undertaken anew. The appropriate forum for that is the Upper Tribunal, as envisaged in the Practice Statement. This is not a case that falls for remittal to the First-tier Tribunal, despite the remarks of HHJ Sephton QC, which appear to have been made without reference to the well-established principles.

6. A hearing for the purpose of remaking the decision will be arranged..”

5. It is against that background that the appeal was listed for a resumed hearing before the Upper Tribunal. Notwithstanding the observation by the Vice President that the evidence has been taken, the appellant has sought to adduce a wealth of further evidence. The hearing of the appeal has a lengthy procedural history that is a matter of record and which we do not recite in this decision. For present purposes it is sufficient to note the appeal was listed for a resumed hearing before us on 15th February 2022. We were presented with a Rule 15(2A) application by the respondent to rely upon background material relating to the presence and availability of mental health and diabetes treatment in the relevant area of Pakistan. We granted the respondent permission to rely on that evidence and adjourned the resumed hearing to the first available date after 4th April 2022. The respondent was directed to file and serve a position statement setting out an outline of the areas that the relevant expert should be invited to consider regarding the presence and availability of mental health and diabetes treatment in Pakistan, in an addendum report. We directed that an addendum report be filed and served by 11th March 2022. The parties were informed on 21st March 2022 that the appeal is listed for a resumed hearing at the Manchester Civil Justice Centre to commence on 26th May 2022.
6. On 17th May 2022, Abbey Solicitors Ltd made a Rule 15(2A) application to adduce further evidence on behalf of the appellant. The appellant sought to rely upon a letter from Mr Mehboob Akhtar, the appellant’s husband and extracts from his medical records. They also sought to rely upon an Occupational health report dated ‘April 2022’ prepared by Amy Goddard

relating to the appellant's son, Altaf Hussain Ghuans, and a further witness statement made by the appellant's niece, Razyana Akhtar. We permitted the appellant to rely upon that further evidence.

Application for an adjournment

7. On 20th May 2022, the appellant's previous representatives, Abbey Solicitors Ltd informed the Tribunal that they have become professionally embarrassed and cannot continue to represent the appellant. The Tribunal was informed that the appellant had been told the previous day that she will need to find alternative representation and Abbey Solicitors Ltd were happy to assist with that. On 22nd May 2022, the Tribunal received an application for an adjournment, by email, prepared by the appellant's son. The application was accompanied by a letter from TRP Solicitors who indicated that although not formally instructed, if the appellant is granted an adjournment, they are able to take over conduct of the appeal. They would need some time to obtain the files from the previous solicitors; to review the case papers; to take instructions and to liaise with counsel. The application was considered by us and refused for reasons set in directions dated 23rd May 2022.

8. On 23rd May 2022 the Tribunal received a further email from the appellant's son stating he was trying to find a solicitor to act for the appellant and instruct counsel but was finding it extremely difficult to find any reputable firm willing to take this matter on at such short notice, providing similar reasons to those that were re-iterated by TRP Solicitors in their attached letter dated 24th May 2022. The appellant's son again requested that the Tribunal grant an adjournment so that TRP Solicitors can be instructed, and they have sufficient time to review the matter and take instructions. The Tribunal was invited to list the appeal in line with the availability of counsel, Mr Alisdair Mackenzie. The parties were informed that the appeal would remain listed for hearing before us on 26th and 27th May 2022.

9. The appellant attended the hearing before us with all the members of her family that have made witness statements. She was ably assisted by her son Shaban Akhtar throughout, and we allowed him to address us on her behalf. At the outset, the application for an adjournment was renewed before us. On behalf of the appellant, Mr Shaban Akhtar submitted that none of the family are lawyers and neither the appellant nor him understand the law, and they would be unable to assist the Tribunal with the relevant law. He submitted that for the appeal to be effective and fair, the appellant would like to be represented.

10. We refused the application for an adjournment. We have already set out some of the history to this appeal. We acknowledge that the appellant has been left unrepresented because of the withdrawal of representation by Abbey Solicitors Ltd on or about 19th May 2022, one week before the hearing before us. The appellant wished to retain the same counsel but required sufficient time to arrange legal representation so that counsel, who is unable to receive instructions by direct access, can be instructed. We make no criticism at all of the entirely cogent reasons given by TRP solicitors for their unwillingness to take on the appellant's appeal without an adjournment. The appellant here, however, has had the benefit of representation by Abbey Solicitors Ltd, who, we are bound to record, had filed a very well-prepared consolidated bundle of the evidence relied upon by the appellant. The bundle was comprehensive and provided the Tribunal with a substantial volume of material that was easy to follow. The bundle contains a significant number of witness statements from the appellant's family, despite the previous observation of the Vice President in his 'error of law' decision that the evidence has been taken, and it is the assessment of its effect and the striking of the balance, that needs to be undertaken anew. As we have already recorded, only days before the withdrawal of representation, Abbey Solicitors Ltd had made a further Rule 15(2A) application providing the Tribunal with yet more evidence. It is not suggested that there is any other evidence that the appellant needs time to gather.

11. It is not unusual for parties to represent themselves before a specialist Tribunal. Here, there is no point of law to be decided such that we would benefit from legal argument from counsel. The issues that arise in this appeal are not such that legal representation is indispensable. The provision of appropriate assistance to parties in such circumstances, is a routine part of the work of a Tribunal judge. The parties do not have any absolute right to be represented at hearings. We accept the appellant and her son, Mr Shaban Akhtar, have no knowledge of the law, but we have before us a skeleton argument dated 8th February 2022 that had been settled by counsel previously in readiness for the hearing before us in February 2022. That skeleton argument directed us to the relevant law relied upon by the appellant and the evidence that was then before the Tribunal. It is not apparent that professional representation would be of additional benefit for the appeal to be determined. The appeal is complex insofar as it is an appeal against a decision to deport the appellant following the appellant's convictions in April 2016, but the Tribunal is well versed in reaching decisions in such appeals where there is a wealth of evidence. The assessment of the evidence and whether the witnesses have provided a truthful account is for the Tribunal. Ultimately, it is for the Tribunal to make its findings upon the evidence and for us to apply the relevant legal framework to those findings in reaching our decision. Here, we are entirely satisfied that the interests of justice demand that a decision is now reached upon this appeal, and we are entirely satisfied that the appeal can fairly and justly be determined without an adjournment.

The appellant's conviction and the sentence imposed

12. Before we turn to the evidence in this appeal, it is useful for us to refer to the convictions and sentence that lie behind the respondent's decision.

13. On 21st April 2016, the appellant was:

- a. Convicted of one count of cheating the public revenue between 1st January 2004 and 26th September 2012 for which she was sentenced to 30-months imprisonment;
- b. Convicted of one count of entering into an arrangement to facilitate the acquisition, retention, use or control of criminal property for which she was sentenced to a concurrent 30-month term of imprisonment;
- c. Convicted of two counts of conspiring to obtain a money transfer by deception. The first count relates to the period 1st December 2004 to 30th April 2005 and the second count relates to the period 1st May 2005 to 30th September 2005. The appellant was sentenced to a 21-month term of imprisonment for each count to run concurrently, but consecutive to the 30-month term of imprisonment already imposed.

14. The appellant therefore received a total sentence of four years and three months. We have in the papers before us the sentencing remarks of His Honour Judge Eyre QC. There were ten defendants before the Crown Court. Before sentencing each defendant in light of their culpability, His Honour Judge Eyre QC set out the background. He said:

“... I have to sentence you for involvement in a sophisticated and organised series of frauds. This is an operation which lasted just under a decade. It involved the repeated deception of mortgage lenders. There were repeated lies to mortgage lenders, forged documents were used, fabricated accounts were put forward, fabricated accountancy confirmations were put forward, fabricated mortgage offers were put forward, and at least one fabricated payslip. Mr Pandariman’s status as a spiritual leader, healer, and guide gave a degree of cover to this operation and led to others becoming involved. There was a sophisticated use of multiple bank accounts and life policies to launder the funds which were obtained. The operation was financed in part through donations given in the context of spiritual leadership, and in part to a failure to pay tax which was due on sums of money, and in part through the repeated deception of those lending on mortgages.

The result for the [the appellant’s husband] was the building up of a property portfolio of 54 residential properties and commercial properties, and substantial homes for him and members of his family, and lavish furnishings of those properties, together with substantial sums of money, in addition, being in life policies.

All of you took part in this operation but to varying degrees...”

15. His Honour Judge Eyre QC then referred to the sentencing guidelines, and the categorisation of the particular offences. As far as is relevant to the appellant, he said:

“... Count two is a count of revenue fraud involving Khadija Akhtar. The prosecution schedule there is some £463,000 on a conservative basis. Again, the prosecution invite revision of that figure, but I remain of the view that it is appropriate to take a particularly cautious approach, and my assessment again in respect of that revenue fraud by Khadija Akhtar is that that falls into Category 5 at about the starting point of £300,000 or perhaps a little higher.

In terms of count three, the precise amount which was involved in this money-laundering by Khadija Akhtar is unclear but there was the repeated use of bank accounts, of life policies and properties in her name. The prosecution invite me to say that this is in Category 4 at about the starting point, and it is my assessment that that is a fair approach but potentially on the conservative side...”

16. In going on to sentence the appellant, His Honour Judge Eyre QC said:

“... I accept that you Khadija Akhtar, were not the organiser or instigator of these matters but there was willing and knowing involvement on your part. You got the benefit of the frauds through homes and furnishings and lifestyle. And, again, the relevance of your good character is limited by the effect of the duration of this offending. Count two is a category 5 offence. Your culpability has to be of at least medium culpability by reference to the duration of your offending. That would justify a sentence of three years’ imprisonment.

I take account of your health; I take account of the fact that you have a genuine post-traumatic stress disorder, but I also take account of the finding I made on the evidence that was put before me that there was deliberate exaggeration by you of that disorder and its symptoms in an attempt to obtain a ruling that you were not fit to plead. I accept nonetheless that your condition will be aggravated by time in custody and, to take account of that, on count to the sentence will be of one of two and half years’ imprisonment.

Count three is a category 4 offence with medium culpability. I regard this and the tax fraud set out in count to as in reality being part of the same operation, and I impose a sentence of two and a half years’ imprisonment for count three, but it will be concurrent to the sentence I have just imposed.

Counts eight and nine are each counts in Category 3 but the fact of the combination of offending is significant and, again, you are of medium culpability. I take account of the total sentence to be passed on you, of your health and my assessment of your level of involvement in these matters, but the least sentence I can impose for these two counts, concurrently on each, is one of 21 months imprisonment consecutive to counts two and three. In this case, that makes a total of four years and three months’ imprisonment.”

The evidence

17. In advance of the hearing before us in February 2022, the Tribunal had been provided with a consolidated bundle of the evidence and material relied upon by the appellant, in accordance with directions made. The evidence is set out in two lever arch files. A further supplementary bundle had been provided by Abbey Solicitors Ltd that included the further evidence the appellant relied upon before representation was withdrawn.
18. At the hearing before us on 15th February 2022, we granted the respondent permission to rely upon background material referred to by Mr Bates regarding the availability of treatment in the relevant area in Pakistan.
19. There is a wealth of evidence before us. It would be entirely impractical for us to burden this decision with a reference to each piece of evidence but for the avoidance of doubt we have had regard to all the evidence set out in the bundles before us. The focus at the resumed hearing before us was upon the evidence of the witnesses that have made statements and gave evidence before us.

1.	The Appellant, Khadija Akhtar	
	23.10.20	[1/1/page 3]
	22.07.19	[1/2/page 10]
	10.04.19	[1/3/Page 14]
	21.01.19	[1/4/Page 19]
2.	Mr Mehboob Akhtar	With Rule 15(2A) Application
3.	Altaf Hussain Ghauns	
	22.07.19	[1/5/Page 25]
	22.07.19	[1/5/Page 27]
4.	Razyana Akhtar	
	20.10.20	[1/6/Page 30]
	22.07.19	[1/7/Page 32]
	17.05.22	With Rule 15(2A) Application

5.	Mr Shaban Akhtar (Appellant's son)	
	22.10.20	[1/8/Page 34]
	22.07.19	[1/9/Page 64]
6.	Miss Rushbamani Umar Zaib (Appellant's daughter)	
	21.10.20	[1/10/Page 66]
	22.07.19	[1/11/Page 68]
7.	Mehran Akhtar (Appellant's eldest son)	
	22.10.20	[1/12/Page 69]
	22.07.19	[1/13/Page 72]
8.	Miss Noor-Un-Nisa Akhtar (Appellant's granddaughter)	
	20.10.20	[1/14/Page 73]
	22.07.19	[1/15/Page 75]
9.	Mr Saghawat Ul-Haq	
	23.10.20	[1/16/Page 77]
10.	Mr Matloob Ahmed	
	17.03.20	[1/17/Page 96]

20. We heard oral evidence from the appellant. She gave her evidence with the assistance of an Urdu interpreter arranged by the Tribunal. We also heard oral evidence from Mr Shaban Akhtar, Mr Altaf Hussain and Ms Razyana Akhtar, and Mr Matloob Ahmed. Each of those witnesses gave evidence in English and did not require the assistance of the interpreter. Although other members of the appellant's family have provided statements in support of the appeal attended the hearing, save for the appellant's husband, Mr Mehboob Akhtar (who remains in prison), Mr Bates did not require them to be called for cross-examination.
21. The evidence before the Tribunal in the form of witness statements and reports is a matter of record. We do not propose to rehearse the written evidence relied upon by the appellant and her witnesses and will instead

refer to it as far as it is necessary to do so to explain the conclusions we have reached.

The appellant

22. Before us, the appellant adopted the four witness statements that she has made and are in the consolidated bundle of evidence. She confirmed that her signature appears on each of those statements and that to the best of her knowledge and belief, the content of those statements is true and correct.
23. The first witness statement of the appellant, dated 21st January 2019, refers to the appellant's entry to the United Kingdom as a fiancée in 1985, and her subsequent marriage to Mr Mehboob Akhtar (also known as Saint Pir Pandariman) that year. She refers to various visits she has made to Pakistan. She confirms that she has five children, all of whom are British citizens;
- i) Rushbamani Akhtar (daughter) born 10.10.1986;
 - ii) Mehraniman Akhtar (son) born 07.10.1989;
 - iii) Arusa Akhtar (daughter) born 07.11.1992,
 - iv) Shaban Akhtar (son) born 14.01.1994; and
 - v) Altaf Hussain (son) born 20.05.1997
24. The appellant states that she lives with her three sons, Mehran, Shaban and Altaf, and they depend upon her for their needs, in particular, Altaf, who has difficulties with mobility and walks with a limp. She states he cannot cook his own meals or stand for long. They have a wet room for him as he would experience difficulty in climbing into a bathtub. She states that her sons Mehraniman and Shaban work full-time, and she takes care of the home whilst her sons are at work. She states she loves her husband and children dearly and could not live without them. She states her children have no connections to Pakistan, and they have built a life for themselves in the UK. The appellant confirmed that she remains in a genuine and subsisting relationship with her husband and despite their

incarceration, they kept in touch via letters and telephone calls. Since her release, the appellant has maintained contact with her husband through daily telephone calls and she states that would not be possible if the appellant is deported to Pakistan. The appellant claims her husband has always depended upon her for his own personal care, and she has dedicated her life to him. She claims he would not be able to continue life in the UK without her. The appellant claims she has no close family in Pakistan. Her parents passed away, and she has a sister who resides in the UK with her family. She claims she has no home in Pakistan and is not in a position to establish herself there. She claims she has no one to turn to in Pakistan and could not reside there alone. The appellant expresses remorse over her criminal conviction and explains she has realised what she could lose. She claims she is a very valued member of the Pakistani community and although they do not condone her actions they have stood by her. She states she is socially and culturally integrated in the UK and attends the Darbar Unique Centre in Stoke-on-Trent and helps organise prayer meetings each week. That is a registered charity open to all members. She cooks food on Thursdays and distributes the food to her neighbours and local residents.

25. In her last statement dated 23rd October 2020, the focus is upon the health of the appellant's son Altaf, who has various problems including learning difficulties and a physical disability. The appellant states that when she went to prison, Altaf was a little overweight, but he lost a lot of weight and was underweight, by the time of her release. She claims he is very worried that she is going to leave him and there will be no one to take care of him. She claims that she now lives alone with Altaf, and there is no one else who can look after him. His brothers and sisters all work and have their own families to look after. She claims he would suffer greatly if she were not able to be there for him. Whilst she was in prison, she claims Altaf was *"passed from pillar to post because everyone else works"* and they had to juggle his care with their own commitments which was very difficult and upsetting for Altaf.

26. In cross examination, the appellant said that neither her husband nor other family members sent money to Pakistan previously to assist other family members that might have problems with things like accommodation. She confirmed the property at which she now resides with her son Altaf is rented by her son, Shaban. She was asked by Mr Bates about her relationship with her sister-in-law (*i.e. her late brother's wife*), and she told us that although they had a good relationship before, they do not have a good relationship now. When asked why that relationship had changed, the appellant said that after her brother had died, the family home was handed over to her sister-in-law and because of that, their relationship suffered. She was asked why that would cause a problem because the home appears to have been transferred to her brother's family, and the appellant told us that her sister-in-law did not want the appellant to return to the property, and so the appellant cut off her relationship with her. She said that had happened many years ago, since her brother had died. She was unable to explain why the breakdown of their relationship had not previously been mentioned in her witness statements. She claimed she had mentioned at one of the court hearings previously, that she did not have a good relationship with her sister-in-law. The appellant confirmed that she had four brothers and three sisters. One of her brothers has passed away and she therefore has three surviving brothers, the eldest of whom lives in the UK.
27. Mr Bates asked the appellant about the family home owned by her father-in-law and mother-in-law. She said the house still remains there, and although she does not know who owns the house, it is now occupied by her sister-in-law (*i.e. her husband's sister*). She said she does not know who else lives in that property.
28. The appellant confirmed her husband is a spiritual leader and well respected within the family. When asked whether her husband has asked any of his family in Pakistan if they would accommodate the appellant, the appellant said, "*no because they will not be able to keep me over there*".

When asked why, she said that her sister-in-law (i.e. her husband's sister) does not have a husband and they do not have much of a relationship with her either. When asked why her children in the UK could not support the appellant in Pakistan as they do in the UK, the appellant said that her children could not provide her with financial help in Pakistan because it will cause them difficulties.

29. The appellant was asked about the care that she provides for Altaf, given her own health. She said that she has a serious condition - OCD - but she looks after him wearing an overall, gloves, and by repeatedly washing her hands. She said that Altaf would be unable to live with her in Pakistan because all of his siblings are in the UK, and she cannot live without her children. She was asked if there was any other reason she cannot live in Pakistan. She said all of her family is in the UK. She has no relatives in Pakistan and if something were to happen to her, there would be no one available to help her. It was put to her that her son, Shaban, has managed to obtain some documents from family in Pakistan. The appellant said that the rest of the "extended family" cannot replace the relationship she has with her own children, and closest family such as her siblings.

Shaban Akhtar

30. Shaban adopted the two witness statements (dated 22nd July 2019 and 22nd October 2020) that are set out in the consolidated bundle. He confirmed that his signature appears on both statements and that the contents of each of those statements is true to the best of his knowledge and belief.
31. In his statement dated 22nd July 2019 Shaban Akhtar states, at paragraph [2] that he is not married and lives on his own in the same street as his mother. In his subsequent statement dated 22nd October 2020, he states the appellant relies on him and his brother for all of her financial support. He works at a Post Office and Lettings Agency and works late on a daily basis from Monday to Saturday. He dedicates Sundays to his

responsibilities and duties as a son to the appellant and a brother to Altaf. He refers to the appellant taking care of his brother, Altaf, who, he states, needs help with day-to-day activities such as getting dressed and washing. He states Altaf faced a lot of difficulties when their mother was in prison that affected his health both physically and mentally. He states that when the appellant was in prison, Altaf's care was shared between several members of the family which was very difficult as they all work and have possibilities.

32. In cross-examination, he said that he had moved out of the family home that he lived in with his mother and brother, when he was 18 or 19 years old. He said that he is quite independent and needs his own space. He was asked if the appellant needs anyone to live in, and care for her. He said that she does because of her health. When asked who her 'live-in' carer is, he said that although the family all live in separate properties, they all eat with her at her house, and he only returns to his house to sleep. He said that he is now married and has his own son to look after. He said the family is very close and interconnected. When asked whether any of the family in Pakistan, whose property had been affected by the Mangla Dam have been compensated, Shaban Akhtar said that in Pakistan, there is no such thing as support from the government. He accepted there is no objective evidence to support that assertion. When we suggested to him that there is some background material that people affected by the Mangla Dam were compensated, he said that to the best of his knowledge, it is only the wealthy that were compensated. He said that his cousins were not compensated. Shaban Akhtar said that his family had not previously provided support to their family in Pakistan because culturally, people do not seek help and they did not want help. He was asked about the evidence he has obtained from family members in Pakistan. He said that he had asked the authors if the appellant could go and live with them, and each of them said that they would not accommodate her because they are a poor family and could not support her financially. Mr Bates suggested that the appellant is supported

financially in the UK and asked why that financial support could not continue if the appellant were living in Pakistan. He said the appellant would have nowhere to go and stay, and the family would not be willing to accommodate her.

33. In answer to questions put by us, Mr Shaban Akhtar said that he and his brother, Mehran, together with their families, meet at the appellant's house each day. He said that his wife goes to the appellant in the morning with her son, and he joins them after work. He said the family spend the evening together and then return home although his brother, Mehran often stays later. He said the appellant does all the cooking for the family. We asked him whether the appellant could go and live near other family members in Pakistan, if she cannot go and live with them. He said that the areas that the family live in are in a poor condition, and because of her OCD and a general lack of accommodation around there, he would not be able to let her live there. He said that it would be very hard for him to pay the rent, and that in the UK, whenever the appellant requires anything, he and his brother make sure she gets what she needs.

Altaf Hussain Ghauns

34. Altaf Ghauns adopted his witness statement dated 22nd July 2019, to which he has exhibited another witness statement dated 22nd July 2019. He confirmed that he has signed those witness statements and the contents of both of those witness statements are true and correct.
35. In cross-examination, Altaf Ghauns confirmed that he is on antidepressants but cannot recall the name of the medication and the dose prescribed. He accepted that he has not been told by a doctor that he has to have a special diet. He confirmed that he has not worked since completing his BTEC in information technology in 2016. He is unable to stand for too long and finds it difficult to be understood. When asked what his mother does for him, he said "everything". When asked to provide examples, he said that she takes him to the bathroom, helps him shower,

dress in the morning, and put on his shoes and socks. He is aware that his mother has OCD. He said that when she is looking after him, she wears gloves and wears something over her own clothes, like an apron. He could not remember the last time he went to Pakistan.

Mrs Razyana Akhtar

36. Mrs Razyana Akhtar adopted the three witness statements that she has made, dated 22nd July 2019, 20th October 2020 and 17th May 2022. She confirmed that she has signed each of those witness statements and that the content is true and correct. In her initial two witness statements she describes herself as the *“daughter of the appellant”* and refers throughout to the appellant as her mother. She states that she supports her mother on a daily basis and due to her difficulty speaking English, she attends all of her medical appointments with her. She refers to a very close relationship with her mum and states they support each other emotionally.
37. In her witness statement dated 20th October 2020 she confirmed that she is a Sub-Postmistress and works Monday to Fridays. She states she only gets time to see her mother and brother, Altaf, on Sundays as she has her own family to take care of, although she will pop in to see them every now and again. She refers to the appellant doing everything for Altaf including cooking and getting his clothes ready. She claims no one can care and look after his needs as the appellant can. She states when the appellant was in prison, they all had to try to look after Altaf, but it was difficult because they all work and have their own families to take care of. She herself had to finish work early, but that was not always possible and so they would have to ask other family members to help him, to try and make sure someone was with him all the time. Mrs Razyana Akhtar refers to the family’s attendance at the Darbar Unique Centre that is located next to the appellant’s house, and where the appellant helps cook the food which is shared with the community.

38. In her most recent statement, Mrs Razyana Akhtar confirmed that she is in fact the niece of the appellant, and not her daughter, although she has always regarded the appellant as her mother, having grown up with her and always referred to her as “mum” in the Punjabi/Urdu language, but never as her “aunt”. Her biological mother and the appellant are sisters. Mrs Razyana Akhtar maintains she attends all appointments with the appellant. She states that the process of getting the appellant referred to a consultant psychiatrist has been very time-consuming and difficult. She spoke to the appellant’s doctors in February 2022 about a deterioration in the appellant’s OCD and her mental health. As far as she is aware, the appellant has been referred to a psychiatrist but is awaiting an appointment.
39. In cross-examination, Mrs Razyana Akhtar confirmed that her biological parents are living in the UK and that she continues to provide some care to the appellant. It is not daily, but she helps when she can. She speaks, in particular, to the doctors. She still goes to the appellant’s home whenever she can, but it is usually at weekends. She said that the appellant does “everything” for Altaf. When asked whether the appellant has to take any precautions because she has ‘OCD’ and ‘diabetes’, she said “*no not really. She knows she has to look after him and does look after him. Sometimes she wears gloves and sometimes she does not..*”. She said that sometimes the appellant would change her clothes after helping Altaf. By way of clarification, we asked her how often she takes the appellant to see the doctors and whether it was only her that takes the appellant. She said that it is usually her that takes the appellant to doctor’s appointments, but sometimes Shaban will take her if needed. Most of the appointments are now completed over the phone, remotely, and she tries to arrange the appointment at a time convenient to her after work. If she is not available, Shaban is available and manages the appointment.

40. Mr Ahmed adopted his witness statement dated 17th March 2020. He confirmed the statement was signed by him and the content of the statement is true and correct. Mr Ahmed was previously employed by Abbey Solicitors Ltd and on 14th February 2020, he attended a property in Jhelum, Pakistan. He has exhibited photographs of the outside of the property and translated what is said on the name plate. He claims he attempted to gain access to the property to observe the inside. He met with the current occupier who identified herself as Ms Zareen Begum, the 'widowed wife of Mr Nazir Ahmed Chauhan'. Ms Zareen Begum said that her deceased husband was the brother of the appellant. He claims that upon requesting access to the property, Ms Begum "... refused and became hostile towards [him]. Mrs Begum did confirm that she resides at this property herself, and she is not on speaking terms with Mrs Akhtar since her husband had passed away. She also advised that she has no intention of making any contact with Mrs Akhtar and that under no circumstances would the appellant be welcome to stay with her.
41. In cross-examination Mr Ahmed confirmed that at the time of his visit, he was working in the criminal defence department at Abbey Solicitors Ltd. He had no involvement with the immigration department, but a principal in the firm was aware that he had a pre-planned holiday to Pakistan to attend a cousin's wedding. He was asked by that principal whether he would be willing to visit Jhelum, which is the neighbouring district of his ancestral home. He had had no previous dealings with the appellant or her family. He had been informed in advance that there was an ongoing immigration matter, and the respondent was seeking to return the appellant to Pakistan. He had been asked to go inside the property and take some photographs and enquire whether the appellant would be welcome at that property. He was given an address to visit. He attended and knocked on the door. A lady answered, and he explained the reason for his visit. He claims that as soon as he mentioned the appellant's name, the lady became hostile, but did not say why she was being hostile. In answer to questions put by us, Mr Ahmed said that he may have been told of the

need to visit the property in Pakistan by email, and he was pretty sure there was a file note setting out what he was being asked to do. He accepted that no file note has been disclosed or exhibited to his statement. He claimed that he had not made any contemporaneous notes during the visit itself but had recorded some bullet point notes when he was driving home from Jhelum to Gujrat, immediately after the visit. He claims the notes that he made were provided to the solicitor and they formed the basis of the statement now prepared. He accepted that those notes have not been disclosed or exhibited to his statement.

Other witness evidence

42. Although other members of the appellant's family have provided statements in support of the appeal and attended the hearing, save for the appellant's husband, Mr Mehboob Akhtar (who remains in prison), Mr Bates did not require them to be called for cross-examination. In the circumstances, we do not set out their evidence in this decision, but for the avoidance of doubt we have read the statements and have had regard to the matters set out in those statements in reaching our decision. The authors refer to their relationship with the appellant, their own work and family commitments, and some refer to Altaf's health and the care provided by the appellant.
43. In his statement Mr Saghwat Ul-Haq provides information about the Darbar Unique Centre, and the appellant's involvement. Notwithstanding her conviction, he considers the appellant to be a loving, caring and honest individual. The appellant is described as a key member of the community and forms the backbone of the "*lady's spiritual gatherings*" at the centre. She is described as one of the more mature/senior volunteers who has built a strong relationship with visitors from near and far, and a rapport with ladies of different faiths. She is said to have been greatly missed when she was in prison, but when she returned, she was also able to interact and understand English speaking visitors.

44. Councillor Paul Shotton writes to support his constituent, who he states, he has found to be of impeccable character and integrity. She is said to play a very significant role in the operation and activities at the Darbar Unique Centre. He describes the appellant's conviction and custodial sentence as "*..a one-off error of judgement..*" on the appellant's part, leaving her with the prospect of deportation. He states that if deported to Pakistan, the appellant will have nowhere to live, will have no financial means to support herself, and her life would be at serious risk because of the prejudice and intimidation she would almost certainly receive both from her immediate family and the community.

Expert evidence

45. There is also a considerable amount of expert evidence included in the appellant's consolidated bundle including reports by clinical psychologists and psychiatrists. Much of that evidence was prepared at the time when the appellant was facing prosecution and being sentenced. Although we do not refer to that evidence in this decision, we have read the reports that were relied upon by the appellant. The focus before us is upon the expert evidence of Dr Waquas Waheed, and Amy Goddard.

Dr Waquas Waheed

46. Dr Waheed is a Consultant Psychiatrist. He has prepared three reports. The first is a report dated 3rd December 2019. At paragraph [3.2], he states he personally interviewed and examined the appellant on 27th November 2019 and 4th November 2020. We note the second of those interviews/ examinations appears to post-date the report, although we note the report does state in a footnote; [updated on 3 December 2020]. Dr Waheed records, at [5.10] to [5.26], the appellant's personal history as provided by the appellant. Her past psychiatric and medical history is summarised at paragraphs [5.27] to [5.32], without elaboration or reference to the source material. Dr Waheed refers to his 'mental state examination' at paragraphs [5.37] to [5.48] of his report, but that is based

upon information provided by the appellant and his personal observations, without reference to any clinical tests completed. He sets out what he claims to be his 'key findings', at paragraphs [5.51] to [5.59]. His diagnosis is that the appellant is suffering from 'recurrent depressive disorder' and 'Obsessive compulsive disorder' ("OCD"). Dr Waheed states the appellant gets very anxious and distressed if anyone touches her, or her things. He expresses the opinion that at the time of his assessment, the appellant was suffering from complex mental health problems. She has episodes of depression reoccurring periodically, often associated with stressful life events alongside persistent OCD symptoms. He states that with progressing age, OCD and the episodes of depression may become more severe, frequent and resistant to treatment. He records, at [6.3], that the appellant is taking regular antidepressants as prescribed by her GP. Her children are said to be providing much needed emotional and social support. At paragraphs [6.7] to [6.15], he sets out the possible problems the appellant will encounter on deportation to Pakistan. He states, at [6.12]; "Due to her OCD symptoms she will be classed as mental patient by lay people in Pakistan and stigmatised". He states, at [6.13], that at her age the appellant will not be able to adjust to the prevailing circumstances in Pakistan. Due to her recurrent depression and associated symptoms, she will struggle to live independently and integrate back into local Pakistani society. Dr Waheed refers to mental health care in Pakistan and states he previously worked in Pakistan as a psychiatrist. Since his arrival in the UK, he has maintained regular contact with psychiatrists in Pakistan and has been involved in numerous educational initiatives to improve the skills of mental health professionals. He states:

6.20 It is often cited in the Home Office correspondence that Pakistan has five mental hospitals and antidepressant medications are available.

6.21 these five hospitals are for a population of 220 million. Pakistan has one of the highest prevalence of depression reported in psychiatric research from anywhere in the world. So the workload of these facilities is exceptionally high. The end result is that people do not get treated and in spite of Pakistan being Muslim country rates of suicide are now increasing.

6.22 the basic mental health units attached to general hospitals do not have trained psychiatrists. The non-medical professionals available in these units are provided basic mental health diagnosis skills, and act as referring agents to the psychiatric hospitals.

6.23 it is a fact that antidepressants are widely available in Pakistan and Mrs Akhtar will be able to purchase them. But I must emphasise that her complex physical and mental health problems cannot be supported just with tablets. She needs specialist mental health services in Pakistan to manage her depression.”

47. Dr Waheed examined the appellant again on 27th January 2022, by video link, for the purposes of his second report dated 28th January 2022. He repeats again the appellant’s personal and family history as provided to him by the appellant. He completed a ‘mental state examination’ and notes the appellant reported persistent fear that she is going to get contaminated if someone touches her or any items that are not specifically hers. He states she has a systematic routine and feels unsettled if she does not stick to it. As far as her cognitive functions are concerned, Dr Waheed notes the appellant has no problems in her concentration, registering, and recall of recent and remote memory. Again, he sets out what he describes as the “key findings” and confirms the diagnosis as; “Recurrent depressive disorder, current episode moderate” and “Obsessive compulsive disorder”. He states her OCD symptoms have become more elaborate, frequent and severe over the years. He states she presented with high levels of distress associated with these thoughts and rituals and this has worsened her quality-of-life. He maintains the appellant suffers from complex mental health problems. He states the appellant is taking regular antidepressants as prescribed by her GP and her children are providing much needed emotional and social support. He states the appellant is 60 years old, and will require continuous ongoing treatment, psychosocial support and risk management. He repeats his previous opinion that due to her OCD symptoms; the appellant will be classed as mental patient by lay people in Pakistan and will be stigmatised. He again repeats his previous opinions regarding mental healthcare facilities in Pakistan.

48. The third report of Dr Waheed is dated 6th March 2022 and follows the adjourned hearing of the appeal in February 2022, when we permitted the respondent to rely upon background material relating to the presence and availability of mental health and diabetes treatment in the relevant area of Pakistan. Dr Waheed responds to a number of questions raised by the respondent. As to his expertise on the availability and accessibility of medical treatment in Pakistan, Dr Waheed confirms that he graduated in 1987 and in 1990, started psychiatric training in Pakistan. He worked in the Armed Forces as a psychiatrist until 1996. During that period he was posted at the military hospital at Jhelum during 1991-92. He states that he maintains close links with psychiatrists in Pakistan and has presented at various conferences and delivered lectures at various mental health facilities in Pakistan. He is currently leading a University of Manchester funded clinical trial of talking therapies in Pakistan, in collaboration with mental health organisations in Pakistan. He states there is no psychiatry department in the public funded DHQ Hospital in Jhelum. He accepts two doctors are practising privately as psychiatrists in Jhelum, as identified by the respondent, but claims Dr Akhtar has a DPM (Pakistan) qualification, which is a 12-month course in psychiatry, and considered to be a 'minor qualification'. Dr Waheed states he has visited the 'Polyclinic' website and contacted local doctors in Jhelum and has concluded that the 'Polyclinic' is more of a non-specialist private mental health clinic. It does not offer any mental health outreach and would have limited capabilities in managing psychiatric emergencies. The qualifications of Dr Tufail are unclear and Dr Waheed states; "*As per information gathered through medical connections in Jhelum he also has some minor qualifications*". Dr Waheed states there are no community mental health services in Pakistan that offer treatment and follow-up in the community. That is information he has sourced "*from the web and via contacts in Jhelum*". Dr Waheed was referred to the implementation of the Mental Health Act 2014 in Punjab. He states the ordinance basically deals with involuntary admission to psychiatric facilities, more so on how to deal with psychiatric patients involved in criminal activities. It does not provide any framework towards the

development or provision of community-based psychiatric treatment facilities at a district level. Dr Waheed was also referred to the World Health Organisation Mental Health Atlas 2017 which refers to 11 psychiatric hospitals and 800 units in general hospitals (offering in-patient care), together with 3,729 outpatient facilities and 624 community-based (non-hospital) psychiatric outpatient facilities. Dr Waheed states he is surprised at the figures quoted. He shared the information with psychiatrist colleagues in Pakistan and they were all surprised at the figures. They were particularly surprised at the figure of 800 units in general hospitals with inpatient care. He states that at that time, there were about 250 trained psychiatrists in Pakistan, and he questions how the 800 units are managed by 250 psychiatrists. He expresses the opinion that the figures are not correct. He states psychiatrists are mainly available in public funded large teaching hospitals and some district hospitals. He accepts the number of trained psychiatrists has lately increased to about 450, due to increased interest in the speciality and the return of some foreign trained psychiatrists.

49. Dr Waheed confirms that when he was preparing his previous reports he was not aware of the sentencing remarks made by His Honour Judge Eyre QC that there had been some deliberate exaggeration by the appellant of her disorder and symptoms in an attempt to obtain a ruling that she was not fit to plead. He states: *“Psychiatric diagnosis unlike physical health conditions is primarily based on the self-report by the patient, collateral account from friends or families, and direct observation of their behaviour. Unless the person is observed over a long period of time, particularly in an inpatient ward the treating psychiatrist does not have the benefit of longitudinal observation of symptoms and behaviours and are mainly relying on the information they receive...”*. He states he could not rule out any exaggeration, but has interviewed the appellant, her son, and more recently, her daughter, and all three provide the same information about the nature and severity of her symptoms. He concludes it is highly unlikely that the appellant has exaggerated symptoms. Dr Waheed states that if

the Tribunal finds the appellant will have family support in Pakistan, that will help her and buffer some of the stress that she would be under. The impact would depend on the nature and quality of the support available to her. Dr Waheed states that if the appellant were to return to Pakistan, in all probability her mental health will deteriorate, and the severity of her symptoms would increase.

50. Dr Waheed states that in summary, Jhelum does not have any public funded mental health facilities. There are two doctors with minor specialist qualifications in psychiatry who offer clinic-based treatment for mental health in Jhelum and there are no community-based facilities offering outreach services or crisis intervention. Dr Waheed expresses the opinion that once the appellant is informed about her deportation to Pakistan, it will immediately lead to her coming under extreme stress resulting in a further worsening of her mental health, an increase in the frequency of her obsessive-compulsive behaviours and increased risk to herself. He is concerned that the suicide risk would increase manyfold. This may require increasing her medication, support from the crisis team or even admission to a mental health unit. There would be an increased risk upon arrival in Pakistan, where she would be under extreme stress, lonely and unaware of how to control her behaviours and seek help. In summary, he expresses little doubt that her prognosis would be poor with a deterioration in her mental state, increasing the severity of symptoms, increase in the frequency of her OCD behaviours, and a heightened risk to herself.

Amy Goddard

51. Amy Goddard is an Occupational Therapist and the focus of her report dated 'April 2022' is the care needs of the appellant's son, Altaf Ghauns. She completed an assessment on 29th March 2022 at the appellant's home in the presence of the appellant, her three sons and her daughter. Amy Goddard states that Altaf Hussain and his siblings contributed to the assessment directly and, due to language barriers, they translated on

behalf of the appellant. She records that Altaf Ghauns lives with his mother, and she was informed that the property is privately rented and in Altaf Ghauns' name. Amy Goddard confirms Altaf Ghauns engaged while in the assessment process and she is not aware of any organic cognitive impairment that impacts upon his ability to engage and participate in daily living tasks. She noted Altaf Ghauns has an injury to his left foot and walks on the outer edge of his foot. She noted that he reports he is on regular medication for anxiety and depression, and repeatedly looked to his mother for reassurance. She records, at [1.6.7.1] that Altaf Ghauns relies on his mother for assistance with all activities of daily living. During her time in prison, his three siblings stepped in and provided 24-hour support to him. She notes, at [1.6.7.2], that he is functionally able to complete a lot of tasks, for example, eating or drinking. In section two of her report, Amy Goddard records Altaf Ghauns to be pleasant and polite. She observed normal range of movement in the upper limbs and that he was able to grab a cup of tea and drink this independently. He reported to her that a lack of general strength and weakness impact upon some fine motor tasks such as buttons and zips. No issues are reported with regard to bladder and bowel function. She noted he has a diagnosis of anxiety and depression managed by medication and by remaining with his mother. She observed Altaf Ghauns mobilise around the property with the assistance of his mother, noting that he is unable to maintain independence standing balance without support or holding onto something. She observed him ascend and descend the stairs, and to hold onto the banister rail when ascending the stairs one step at a time. The appellant remained close by and physically supported him. Amy Goddard observed Altaf Ghauns independently transfer on/off a dining chair and sofa, although once standing, his mother supported him to maintain his balance and to then mobilise. Mr Altaf Ghaum's reported that he can transfer on/off the toilet independently but requires support in standing. He reported requiring the assistance of his mother with personal care tasks such as showering, and dressing and she observed the appellant put on his socks. She notes that when the appellant was in prison, Altaf

Ghauns was supported by his brothers in showering. She notes that the appellant completes all cleaning and laundry tasks, and the family predominantly supports with shopping tasks.

52. In section three of her report, Amy Goddard sets out her professional opinion and recommendations. She states:

“Summary of Current Function

3.4.1 [Altaf] is heavily reliant on his mother for support with all activities of daily living. In my professional opinion, he has the functional ability to complete more tasks than he currently does, however there is a long-standing dependency on Mrs Akhtar and she has always supported him, apart from during her time in prison. [Altaf] does have some physical impairments that impact is functional ability, but in my professional opinion, the majority of this dependency on Mrs Akhtar for support comes from long-term learnt behaviour.

...

3.4.3.1 During my assessment, it was evident that [Altaf] is extremely reliant on his mother for assistance with activities of daily living. He has a physical need for assistance, due to the deformities in his feet, lower limb weaknesses and reduced balance, but there is also a significant psychological reliance on his mother, which, in my professional opinion, appears to outweigh his physical dependence.

3.4.3.2 from the experience that I do have as an Occupational Therapist and looking at the situation holistically, it appears that [Altaf] has spent the majority of his life, particularly his adult life with his mother supporting him (bar the two years that Mrs Akhtar spent in prison). It is my opinion that there is a strong pattern of learned behaviour between [Altaf] and Mrs Akhtar and I believe that both are as dependent on each other. For Mrs Akhtar, her whole life revolves around caring for [Altaf]. If she was not to do this, her main role in life would be removed and she would lack purpose and meaningful activity to her day.

3.4.3.3 It was evidenced during Mrs Akhtar’s time in prison, that [Altaf’s] family managed the best they could in the situation, but were unable to care for [Altaf] in the same way that Mrs Akhtar code. Again, there will be elements of learned behaviour impacting this, as well as anxiety and also cultural views.....

3.4.3.4 Family reported that whilst they supported [Altaf]] during Mrs Akhtar’s time in prison and would do this again if they needed to, it put an increasing amount of stress on their own lives as they were trying to juggle working full-time, caring for their own families and ensuring they maintain their own personal relationships and life. Family also reported that within their culture, family looks after family, so they would not consider an outside agency, such as carers, assisting [Altaf]. This would not be acceptable.”

53. Amy Goddard concludes that during the assessment it was clear to her that should Mrs Akhtar be deported, this would have a detrimental effect not only on Altaf Ghauns, but also Mrs Akhtar and the wider family.

DECISION

54. Although the appellant was not represented before us, we do have the benefit of a skeleton argument dated 8th February 2022 that was previously settled by counsel, Mr Alasdair Mackenzie in readiness for the hearing listed before us in February 2022. The legal framework relied upon by the appellant is set out at paragraphs [5] to [17] of that skeleton argument.
55. In reaching our decision we have had regard to all the evidence before us, whether or not it is referred to. We have had regard, in particular, to the evidence set out in the witness statements of the appellant and her family and the expert's reports. We have had the opportunity of hearing oral evidence from the appellant and two of her sons in particular and of seeing some of the evidence tested in cross-examination.
56. In considering the oral evidence, we have borne in mind the fact that events that occurred some time ago can impact on an individual's ability to recall exact circumstances. We also recognise that there may be a tendency by a witness to embellish evidence because although the core of the claim may be true, he/she believes that by embellishing their evidence, the claim becomes stronger. We also remind ourselves that if a Court or Tribunal concludes that a witness has lied about one matter, it does not follow that he/she has lied about everything. A witness may lie for many reasons, for example, out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion, and emotional pressure. We have also been careful not to find any part of the account relied upon, to be inherently incredible, because of our own views on what is or is not plausible.

The legal framework

57. Section 32 of the UK Borders Act 2007 defines a foreign criminal, as a person not a British citizen who is convicted in the UK of an offence and, *inter alia*, sentenced to a period of imprisonment of at least 12 months. Section 32(4) of the 2007 Act sets out the clear proposition that deportation of a foreign criminal is conducive to the public good. That is a statement of public policy enacted by the legislature, which the courts and tribunals are obliged to respect. Section 32(5) of the 2007 Act requires the Secretary of State to make a deportation order in respect of every foreign criminal, subject to the exceptions set out in section 33. As far as is relevant that is:

“(2) Exception 1 is where removal of the foreign criminal in pursuance of the deportation order would breach—

- (a) a person's Convention rights, or
- (b) the United Kingdom's obligations under the Refugee Convention.

...

(7) The application of an exception—

- (a) does not prevent the making of a deportation order;
- (b) results in it being assumed neither that deportation of the person concerned is conducive to the public good nor that it is not conducive to the public good;

but section 32(4) applies despite the application of Exception 1 or 4.”.

The appellant's Convention rights

58. We begin by considering whether the appellant has established a family life within the UK. The appellant was born on 17th June 1961 in Pakistan. The first witness statement of the appellant dated 21st January 2019, refers to the appellant's entry to the United Kingdom as a fiancée in 1985, and her subsequent marriage to Mr Mehboob Akhtar (also known as Saint Pir

Pandariman) that year. She confirms that she has five children, all of whom are British citizens. We accept, the appellant arrived in the UK on 20th April 1985 aged 23. The respondent accepts the appellant married in the UK on 14th June 1985. She was granted indefinite leave to remain in the UK on 30th June 2000. We accept the appellant has five children, all of whom were born in in the UK and are British citizens.

59. The appellant has established a family life with her husband, who we refer to in this decision as Mehboob Akhtar. It is well-established in the authorities that there is no relevant family life for the purpose of Article 8 simply because there is a family relationship between two adults (such as a parent and child). There must be something more than normal emotional ties: see *Kugathas v Secretary of State for the Home Department [2003] EWCA Civ 31*. We accept the appellant's son Altaf, who is now 25, continues to live with the appellant. Whether the property is rented by Shaban or Altaf is unclear, but it is immaterial. We are quite satisfied from all the evidence before us that there are more than the normal emotional ties between the appellant and her son Altaf, in particular. One only has to read the report of Amy Goddard to see that there is a strong pattern of learned behaviour between the appellant and Altaf, and that they are both dependent on each other. We find, having considered all the relevant evidence in the round, that the appellant enjoys family life with her husband and Altaf in the UK, and we accept Article 8 is engaged. As far as the appellant's relationship with her other children cannot be described as 'family life', it points to the appellant having a strong private life in the UK. It is uncontroversial that the decision to refuse the appellant leave to remain has consequences of such gravity as to engage the operation of Article 8. We accept that the interference is in accordance with the law, and that the interference is necessary to protect the legitimate aim of immigration control and the economic well-being of the country. The central issue in this appeal is whether the decision to refuse leave to remain is proportionate to the legitimate aim.

60. Part 5A of the Nationality, Immigration and Asylum Act 2002 NIAA 2002 informs the decision making in relation to the application of the exceptions referred to in section 33 of the UK Borders Act 2007. Section 117A in Part 5A provides that, when a court or tribunal is required to determine whether a decision made under the Immigration Acts breaches a person's right to respect for private and family life under Article 8, and, as a result, would be unlawful under section 6 of the HRA 1998, the court, in considering the public interest question, must (in particular) have regard to the considerations listed in section 117B and, additionally, in cases concerning the deportation of foreign criminals, to the considerations listed in section 117C. Section 117C specifically deals with the weight to be attached to the public interest in deporting foreign criminals and provides a structure for conducting the necessary balancing exercise, dependent in part, on the length of sentence imposed.
61. The first question which arises is whether the appellant is a foreign criminal, as defined in s117D(2) of the 2002 Act. We make it clear that for the purposes of the appeal before us, the appellant has not been convicted of an offence for which she has been sentenced to a period of imprisonment of at least four years. Although the total sentence imposed, amounts to 4 years and three months, the maximum sentence for any of the offences for which the appellant has been convicted, is 30 months, and it is on that basis that we proceed. The appellant is not a British citizen, and she has been convicted of an offence and sentenced to a period of imprisonment of at least 12 months. The appellant is a 'foreign criminal' as defined in s117D. Applying s117C(3) of the 2002 Act, the public interest requires the appellant's deportation unless Exceptions 1 or 2 set out in s.117C(4) and (5) apply. We therefore first proceed to consider whether she is exempt from deportation as a result of the private or family life exceptions set out at s117C(4) and (5) of the 2002 Act.

Exception 1; s 117C(4) of the 2002 Act

The appellant's residence in the UK

62. As far as 'Exception 1' is concerned, the appellant was born on 17th June 1961 in Pakistan. As we have said, we accept, the appellant arrived in the UK on 20th April 1985 aged 23 and she has five children, all of whom were born in in the UK. She is now 61 years old. On a purely arithmetical calculation, we accept the appellant has been resident in the UK for most of her life.

Social and cultural integration

63. We do not however accept the appellant to be socially and culturally integrated to the UK. It is now well established that the question whether a foreign criminal is socially and culturally integrated in the United Kingdom is to be determined in accordance with common sense.

64. In CI (Nigeria) v SSHD [2019] EWCA Civ 2027, Leggatt LJ said:

"58. Relevant social ties obviously include relationships with friends and relatives, as well as ties formed through employment or other paid or unpaid work or through participation in communal activities. However, a person's social identity is not defined solely by such particular relationships but is constituted at a deep level by familiarity with and participation in the shared customs, traditions, practices, beliefs, values, linguistic idioms and other local knowledge which situate a person in a society or social group and generate a sense of belonging. The importance of upbringing and education in the formation of a person's social identity is well recognised, and its importance in the context of cases involving the article 8 rights of persons facing expulsion because of criminal offending has been recognised by the European Court.

...

77. ...The judge should simply have asked whether - having regard to his upbringing, education, employment history, history of criminal offending and imprisonment, relationships with family and friends, lifestyle and any other relevant factors - CI was at the time of the hearing socially and culturally integrated in the UK. The judge should not, as he appears to have done, have treated CI's offending and imprisonment as having severed his social and cultural ties with the UK through its very nature, irrespective of its actual effects on CI's relationships and affiliations - and then required him to demonstrate that integrative links had since been "re-formed"."

65. There is very limited evidence before us regarding the appellant's social and cultural integration. The appellant spent the first 23 years of her life in Pakistan. We accept the appellant married shortly after her arrival in the UK and that between 1986 and 1997 she gave birth to the five children of the marriage. The entire focus of the appellant's life in the UK appears to be her devotion to her family, and latterly, the care and support that she provides to her son Altaf. In her witness statement she refers to her attendance at the Darbar Unique Centre in Stoke on Trent and the help she provides in organising weekly prayer meetings, and other events. In his statement Mr Saghwat Ul-Haq provides information about the Darbar Unique Centre, and the appellant's involvement. Notwithstanding her conviction, he considers the appellant to be a loving, caring and honest individual. The appellant is described as a key member of the community and forms the backbone of the "lady's spiritual gatherings" at the centre. She is described as one of the more mature/senior volunteers who has built a strong relationship with visitors from near and far, and a rapport with ladies of different faiths. She is said to have been greatly missed when she was in prison, but when she returned, she was also able to interact and understand English speaking visitors. In his letter dated 21st June 2019, Councillor Shotton refers to the "very significant role" played by the appellant in the operation and community activities of the Darbar Unique Centre.
66. We do not accept that the majority of the Appellant's social identity has been formed in the United Kingdom, and that she is socially and culturally integrated in this country. She arrived in the UK at the relatively young age of 23, and on her account, she did not even begin to learn the English language until she was incarcerated. She gave her evidence before us with the assistance of an interpreter and has, even now, a very limited understanding of the English language. There is no evidence before us of any qualifications or employment history in the UK. The evidence of her niece, Mrs Razyana Akhtar, is that she maintains responsibility for making the appellant's medical appointments and that she and the appellant's

son, ensure the appellant is accompanied to appointments. We accept that since her release, the appellant has maintained her relationships with members of her family and has continued to engage in activities of a positive nature through her continued involvement with the Darbar Unique Centre. She lives with her son and there is no evidence before us that since her release she has found or looked for work.

67. Although we acknowledge the length of the appellant's presence in the UK and her involvement with the Darbar Unique Centre, we note that in his sentencing remarks, HHJ Eyre QC noted that the appellant had been involved in an operation which lasted just under a decade and involved the repeated deception of mortgage lenders. The appellant's husband's status as a spiritual leader, healer, and guide gave a degree of cover to that operation and led to others becoming involved. He noted the operation was financed in part through donations given in the context of spiritual leadership, and the result for the appellant's husband was the building up of a property portfolio including substantial homes for him and members of his family, and lavish furnishings of those properties, together with substantial sums of money. HHJ Eyre QC noted each of the defendants before him took part in that operation to varying degrees. His Honour Judge Eyre QC accepted the appellant was not the organiser or instigator, but there was willing and knowing involvement on her part. She benefitted from the frauds through homes and furnishings and lifestyle. The Judge had also made a finding on the evidence that was before the Crown Court that there was deliberate exaggeration by the appellant of a disorder and its symptoms in an attempt to obtain a ruling that she was not fit to plead.
68. The fraud committed by the appellant was financed in part through donations made by the very community that she claims she was socially and culturally integrated into, given in the context of spiritual leadership. The appellant, although not the organiser or instigator, played a willing and knowing involvement, benefitting from the fraud. Having considered

all the evidence before us, in our judgment there is very little evidence of any meaningful integration beyond the appellant's devotion to her family and her involvement in the activities of the Darbar Unique Centre. Although the appellant has formed relationships in the UK and continued to engage in some community activity, the appellant's conduct and her knowing and willing involvement in a fraud which lasted just under a decade and relied upon the appellant's husband's status as a spiritual leader, militates against a finding that she is socially and culturally integrated in the United Kingdom.

Very significant obstacles to the appellant's integration into Pakistan

69. In any event, even if we had accepted the appellant is socially and culturally integrated in the UK, we do not consider that the appellant would encounter very significant obstacles to re-integration in Pakistan. We remind ourselves that the assessment of 'integration' calls for a broad evaluative judgement. In SSH D -v- Kamara [2016] EWCA Civ 813, Sales LJ said, at [14]

"In my view, the concept of a foreign criminal's "integration" into the country to which it is proposed that he be deported, as set out in section 117C(4)(c) and paragraph 399A, is a broad one. It is not confined to the mere ability to find a job or to sustain life while living in the other country. It is not appropriate to treat the statutory language as subject to some gloss and it will usually be sufficient for a court or tribunal simply to direct itself in the terms that Parliament has chosen to use. The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life."

70. The appellant accepts she has visited Pakistan since her arrival in the United Kingdom without any hindrance. Her father passed away in 1988. Her mother passed away in 1991. On each occasion she returned to

Pakistan to attend their funerals. The appellant confirms she travelled to Pakistan with her sister and would stay at her parents home in Jhelum. She would also travel to the home of her mother-in-law and father-in-law in Mirpur, Azad Kashmir. In paragraph [15] of her statement dated 29th April 2019, the appellant claims she would spend the majority of the time at her mother and father-in-law's house in Mirpur. The appellant states her mother-in-law passed away five years ago (*i.e.* 2014) and her father-in-law passed away many years ago. The appellant states, at paragraph [18] that her connections to Pakistan ended when her parents and her in-laws passed away, and all her family is now either in the UK, in Denmark or in France. The appellant claims she has no social or family connections to Pakistan, and she has no property, land or business interests in Pakistan.

71. We reject the appellant's claim that she would have no accommodation or relatives to turn to in Pakistan. There are material inconsistencies in the evidence before us and we find that the appellant and her son, Shaban were vague in their evidence regarding the connections that the family maintain to Pakistan and the support the appellant would have available to her. We have no hesitation in finding that the appellant and her family have sought to minimise their remaining ties to Pakistan in an attempt to portray a picture that the appellant has no remaining connections to Pakistan and would have no support available to her.
72. We consider first the appellant's own family and the family home owned by her parents. We accept the appellant was born in Pakistan and lived there until she was 23, with her parents. We accept the appellant is the youngest of five siblings. We accept her evidence that her three older sisters were married and moved out of their parents home to live either in Denmark or the UK with their husbands. We accept the appellant had an elder brother who lived, worked and settled in France and that the appellant took care of her parents until she came to the UK to join her husband.

73. At paragraphs [8] and [10] to [12] of her statement dated 10th April 2019, the appellant refers to her brother's family in France. He had two sons and three daughters although one of his sons unfortunately passed away in a car accident at the age of 22. The appellant confirms that she travelled to France to attend the funeral, and when her brother and his wife travelled to Pakistan for the burial, she remained in France to support her brother's daughter-in-law. She also refers to visits to France after her brother was diagnosed with cancer and when his daughter got married. At paragraph [12] of her statement dated 10th April 2019, the appellant states; "*... I am still in contact with my sister-in-law and my nieces and nephews*".
74. In her statement dated 22nd July 2019, the appellant claims that there has been some confusion about her parents house in Pakistan. She claims that when her parents passed away, the property "*went to*" her brother who visited with his family. She states that upon the death of her parents, her brother inherited everything, and the property now belongs to his family. State states her brother's wife is ill and has settled in France, so no-one visits the house any more in order to maintain it. She states that importantly, the property is owned by her brother's family, and she has no control over it. Furthermore, culturally, it is not acceptable for a woman of her age to live by herself, and she would have no house of her own or blood relatives to return to.
75. We have had regard to the evidence of Mr Matloob Ahmed, who adopted his witness statement dated 17th March 2020. We attach little weight to the evidence of Mr Ahmed. We were not at all satisfied that he was able to give the Tribunal any independent and objective evidence. The circumstances surrounding his visit to a property in Jhelum, Pakistan, on 14th February 2020, are unclear. Despite his employment and experience of having worked in a "criminal defence department" Mr Ahmed has failed to disclose to the Tribunal what he had been asked to do, and the contemporaneous notes that he claims to have made, shortly after the visit. He claims that he was asked to simply attend a property, go inside

and take some photographs, and see whether the appellant would be welcome there. It is perhaps unsurprising, that when he attended the property, as a complete stranger seeking to gain access and observe the inside of the property, he was met with some resistance. It is perhaps unsurprising that the occupant, Ms Begum, refused access to the property and became hostile towards him.

76. The evidence of Mr Ahmed that he was told by Ms Begum that “... *she is not on speaking terms with [the appellant] since her husband had passed away...*”, is difficult to reconcile with the evidence of the appellant at paragraph [12] of her statement dated 10th April 2019, that “.. *I am still in contact with my sister-in-law and my nieces and nephews*”. In her subsequent witness statement dated 22nd July 2019, the appellant refers to some confusion surrounding her parents house in Pakistan. She claims since her brother passed away, his wife is ill and has settled in France, so no one visits the property to maintain it. The appellant does not even begin to suggest in that statement that since her brother passed away, her relationship with her sister-in-law (*i.e her brother’s wife, Mrs Begum*) has broken down. We do not accept that relationship has broken down and we reject any suggestion that the appellant would not be welcome at the former home of her parents. The picture painted by the appellant in her witness statement dated 10 April 2019 of her relationship with her brother and his family is one of love, respect and support. At paragraphs [11] and [12] of that witness statement the appellant describes how a few years after her brother’s death, his daughter got married. She stayed for a few weeks to attend the wedding ceremony and cultural events and the appellant claimed she is still in contact with her sister-in-law, nieces and nephews. It is difficult to understand therefore why that sister-in-law should now claim she has not been on speaking terms with the appellant since her husband passed away. If that is what Ms Begum claimed, we reject that assertion, and find that it was said in nothing but a misconceived attempt to mislead the Tribunal and persuade us that the appellant would no longer be welcome at the property in which the

appellant spent the formative years of her life. What is clear from the evidence is that the home previously owned by the appellant's parents remains in the family, and we find that it is a property that the appellant could be accommodated in, even if only for a short period, whilst she re-establishes herself in Pakistan.

77. In any event, we are quite satisfied that the appellant has support and accommodation available to her from her husband's family. In paragraph [15] of her statement dated 29th April 2019, the appellant claims that when she has previously returned to Pakistan, she would spend the majority of the time at her mother and father-in-law's house in Mirpur. There is nothing in the evidence before us to persuade us that there is a good reason why the appellant could not return to her mother and father-in-law's house.
78. Shaban Akhtar has exhibited a number of documents to his witness statement dated 22nd October 2020. They are witness statements that he has been provided with, "from relatives of [the appellant] who all reside in Pakistan". The first is a declaration made by Tasleem Kouser, the sister of the appellant's husband, who lives in Mirpur. She states that when the appellant travels to Pakistan, she stays a few days with her. She states they do not own the house that belongs to her "*in-laws*", and "*we do not have enough space for living*". She claims when the appellant lived in the house "*we had to get in trouble*" but accommodated the appellant "*because she is my brother's wife*". She states they would be unable to adjust to her living in the house again, and it is not possible for them to accommodate or care for her. The second is a declaration made by Mr Muhammad Aurang Zaib. He states Mrs Akhtar "*W/O Mehmood Akhtar*" is the sister-in-law of his wife, and they have been affected by the Mangla Dam. He claims that for the last six months (*his declaration is dated 20th September 2019*), they have been living in rented accommodation and then in his parents house. He claims the appellant has previously stayed with them as a guest for a few days and they now live in a very small

house which would be overcrowded and difficult for them to live in, if the appellant lived with them. He states they are not able to accommodate or care for the appellant. Muhammad Usman Zaib and Muhammad Ali Zaib, the sons of Tasleem Kouser and Muhammad Aurangzaib, both state their financial circumstances are poor and that the family house has been affected by the Mangla Dam. They both confirm they live with their family in their grandfather's house. They both claim that if the appellant lived with them, it would be very difficult to accommodate and support her. Mr Shaban Akhtar has also exhibited to his statement photographs that he claims show how the Mangla Dam has affected the homes in Pakistan. He claims that his mother does not have any other relatives in Pakistan, and he fears that if she is deported, she will be alone and have nowhere to live and be left without any family to support her.

79. The appellant confirmed in cross examination that her husband is a spiritual leader and well respected within the family. When asked whether her husband has asked any of his family in Pakistan if they would accommodate the appellant, the appellant said, "*no because they will not be able to keep me over there*". The appellant accepted the family home owned by her father-in-law and mother-in-law still remains there. She claimed she does not know who owns the house, but said it is now occupied by her sister-in-law (*i.e. her husband's sister*). She claims she does not know who else lives in that property. When asked about her 'sister-in-law' that lives in that house and why she could not live in that property, the appellant said that her sister-in-law does not have a husband and they do not have much of a relationship with her either. There is no evidence before us to support that claim.
80. The only one of the appellant's husband's sisters that has provided any evidence is Tasleem Kouser. She is married and cannot therefore be the 'sister-in-law' that lives in the home previously owned by the parents of the appellant's husband. In any event, neither Tasleem Kouser nor any member of her family refers to them not having much of a relationship

with the appellant. The appellant's relationship with Tasleem Kouser and her family is sufficiently strong to have persuaded them to provide evidence to support the appellant's appeal. The appellant, her son and her representatives previously went to great lengths to secure evidence from family members abroad, but there is no evidence before us from the 'sister-in-law' who is now said to be occupying the home previously owned by the appellant's mother and father-in-law. We do not accept the appellant's claim that the property is occupied by a 'sister-in-law' with whom she does not have much of a relationship. We find that the property would be available to the appellant. There has been no suggestion that that property has been affected by the Mangla Dam. To the contrary, the appellant's evidence is that it is occupied. When asked why her children in the UK could not support the appellant in Pakistan as they do in the UK, the appellant said that her children could not provide her with financial help in Pakistan because it will cause them difficulties. It may well cause them difficulties, but they have been unwavering in the support they have provided to her in the UK, and we find that the appellant's family in the UK will be able to support the appellant financially on return to Pakistan, just as they have whilst she has lived in this country.

81. In the skeleton argument previously filed on behalf of the appellant, there is reference to the respondent's Country Policy and Information Note 'Pakistan: Women fearing gender-based harm/violence' Version 4.0, February 2020' that cites patriarchal attitudes and deep-rooted stereotypes about women's roles and responsibilities. We accept the appellant has genuine concerns that she will find it difficult to assimilate into Pakistan bearing in mind the time that she has spent in the UK with her husband and children in particular. We acknowledge that there is far more discrimination against women in Pakistan, as explained in the CPIN. However, the CPIN makes the point that the status of women in Pakistan differs and is dependent upon many factors. As set out in paragraph [4.10.2], most women in rural areas lived with their families and it was generally not socially acceptable for women to live alone, particularly

younger women. Paragraph [4.10.5] refers to more recent articles which indicate that the trend of women living alone is increasing albeit there are still difficulties encountered, including harassment from landlords and property agents. The appellant cannot properly be described as a 'young woman', and she comes from a well-respected family. That is quite apparent from the evidence before us that notwithstanding the convictions of the appellant and her husband, she has been welcomed back into the community and in particular, the activities at the Darbar Unique Centre. There are properties available to her that are owned by family, and so she will not fall prey to harassment from the likes of unscrupulous landlords and property agents. It is wholly incredible and contrary to common sense that the appellant's remaining family in Pakistan and the local community, would not be prepared to support the appellant, the wife of a self-styled spiritual leader. Although the appellant claims she will struggle to live independently by herself in Pakistan, the appellant has not described any antagonism on the part of her family towards her, and she has been able to travel to Pakistan previously without her husband. She has no fears for her own safety or security in Pakistan.

82. We have also had regard to the medical evidence before us. In his report dated 3rd December 2019, Dr Waheed sets out, at paragraphs [6.9] to [6.15], the "possible problems the appellant will encounter on deportation to Pakistan. Dr Waheed speaks to the multi-faceted problems the appellant would be likely to encounter upon return. He states the appellant will be classed as a mental patient by lay people in Pakistan and stigmatised. He states, at [6.13], that at her age the appellant will not be able to adjust to the prevailing circumstances in Pakistan. Due to her recurrent depression and associated symptoms, she will struggle to live independently and integrate back into local Pakistani society.
83. Dr Waheed states in his most recent report that he could not rule out any exaggeration, but has interviewed the appellant, her son, and more recently, her daughter. All three provide the same information about the

nature and severity of her symptoms. He concludes it is highly unlikely that the appellant has exaggerated symptoms. The fact that the appellant's son and daughter provide the same information about the nature and severity of the appellant's symptoms adds little. We note additionally that Dr Waheed relied upon the appellant's son and daughter to translate. It is naïve to discount the possibility that the appellant who is facing deportation from the United Kingdom, and her children, might wish to fabricate or exaggerate symptoms of mental illness, in order to defeat the respondent's attempts at removal. We note the appellant had previously deliberately exaggerated her disorder and its symptoms in an attempt to obtain a ruling that she was not fit to plead, when faced with a criminal prosecution.

84. Dr Waheed sets out the appellant's personal and family history at paragraphs [5.10] to [5.34] of his report, as described by the appellant. He refers to the appellant's claim that it will be impossible for her to survive in Pakistan. We have no doubt the appellant is likely to be distressed and worried about returning to Pakistan having lived in the UK for many years. We accept the diagnosis made by Dr Waheed that the appellant has complex and challenging mental health needs and has been suffering from recurrent depressive disorder and obsessive-compulsive disorder. We accept she is taking regular antidepressants as prescribed by her GP and that her children are providing her with emotional and social support. We accept the appellant is clearly worried about returning to Pakistan, but we do not accept the appellant will be classed as a mental patient by lay people in Pakistan and stigmatised. Dr Waheed is not a country expert and in any event, he makes that bold claim in his report without setting out any background material to support that claim.
85. The appellant does not have any physical disability that will prevent her caring for herself and whilst the appellant may be used to the lifestyle, facilities and services in the UK, we have no doubt the appellant will, in the fullness of time, become accustomed to the lifestyle, facilities and services

available to her in Pakistan. Dr Waheed concludes the appellant will 'struggle to independently live by herself and integrate back in local Pakistani society', and her mental health will worsen due to a lack of support in Pakistan. For the reasons we have already set out, we do not accept the appellant will have no support in Pakistan. To the contrary, in our judgement she retains strong familial connections to Pakistan. They may not have the space available to accommodate the appellant for any significant length of time, but that is not to say that the appellant would not have at least some emotional support and accommodation available to her. Dr Waheed accepts in the last of his reports that that if the Tribunal finds the appellant will have family support in Pakistan, which will help her, and buffer some of the stress that she would be under.

86. Dr Waheed refers to the state of mental health care in Pakistan. He states there are five hospitals for a population of 220 million. He states Pakistan has one of the highest prevalence of depression reported in psychiatric research from anywhere in the world. The workload for the facilities available is therefore exceptionally high and the end result is that people do not get treated, and rates of suicide are now increasing. He claims the basic mental health units attached to general hospitals do not have trained psychiatrists. He accepts antidepressants are widely available in Pakistan, and the appellant will be able to purchase them, although her complex physical and mental health problems cannot be supported just with tablets. In his most recent report, Dr Waheed confirms that he maintains close links with psychiatrists in Pakistan and has presented at various conferences and delivered lectures at various mental health facilities in Pakistan. He refers to 'two doctors' practising privately as psychiatrists in Jhelum but seeks to minimise their qualifications (*describing their qualifications as 'minor qualifications'*) and experience. Dr Waheed refers to the reference in the CPIN to a WHO Mental Health Atlas 2017 Report, which refers to 11 psychiatric hospitals and 800 units in general hospitals, together with a number of outpatient facilities and community-based psychiatric outpatient facilities. He claims that he

shared the quoted information with psychiatric colleagues in Pakistan, and all were surprised at the figures. Dr Waheed does not disclose the identity of the psychiatric colleagues that he consulted, and the material they relied upon to express surprise at the figures set out. He expresses the opinion that the figures are not correct. Where his opinion is at odds with the WHO Mental Health Atlas 2017 Report, we prefer the information set out in the Mental Health Atlas which is considered the most comprehensive resource on global information on mental health, and an important tool for developing and planning mental health services within countries and regions. In any event, what is clear from Dr Waheed's own enquiries is that the number of trained psychiatrists has increased lately due to increased interest in the speciality and the return of some foreign trained psychiatrists. His comparison with psychiatric services available in the UK does not assist.

87. We do not accept that it would be entirely unfeasible for the appellant, who is now 61, to return to Pakistan. Taking the evidence before us as a whole, in summary, we find the appellant has familial ties to Pakistan to whom she could turn to, for at least some support. Although the appellant left Pakistan many years ago, she has returned to Pakistan several times and we are left in no doubt that the appellant is familiar with general Pakistani culture and traditions. She is able to speak the language. We have carefully considered the matters set out in the report of Dr Waheed and although there will inevitably be some disruption for the appellant to begin with, we find the appellant would be able, within a reasonable period, to find her feet and exist and have a meaningful life within Pakistan. Having heard the appellant give evidence, we find that she has been managing her mental health and knows what she must do to secure the help that she requires. Although the appellant has been diagnosed as suffering from recurrent depressive disorder and OCD, there is in our judgment, nothing that will prevent her from engaging fully in life in Pakistan. We are quite satisfied the appellant has gained an insight into her mental health and developed strategies so that she knows how to

cope. There will inevitably be a period of adjustment, but in our judgement she could adjust to life in Pakistan within a reasonable timescale. The appellant is involved in community activities and has acquired transferable skills. There will be every opportunity for that to continue in Pakistan. The appellant will have the medication that she requires available to her in Pakistan, and we are satisfied that treatment for her mental health, OCD and diabetes will be available to her, even in Jhelum. She has benefitted from financial support from her sons and there is no reason why that cannot continue. The appellant's children are clearly very fond of her, and we find, would provide some short-term emotional support to the appellant. Life in Pakistan will not be easy initially, but we do not accept she could not cope. Having considered the evidence as a whole, whilst we accept that she will naturally encounter some hardship in returning to Pakistan, we do not consider that hardship to approach the level of severity required by s117C(4)(iii). The appellant therefore fails to meet the first exception to deportation.

Exception 2; s 117C(5) of the 2002 Act

88. As for the family life exception, the appellant is married to Mr Mehboob Akhtar, who has provided a letter dated 15th March 2002. He refers to his marriage to the appellant and the care provided by the appellant to their son, Altaf. He confirms that he is currently serving a prison sentence and is due to be released in 2024. He states that he underwent triple bypass heart surgery in January 2020 and is now wheelchair-bound. He relies upon a carer to move him around and a walking stick to assist in walking short distances. He states that he would not be in a position to move to Pakistan under any circumstances because of his health.
89. In her evidence, the appellant confirms that she remains in a genuine and subsisting relationship with her husband and despite their incarceration, they have kept in touch via letters and telephone calls. Since her release, the appellant has maintained contact with her husband through daily telephone calls and she states that would not be possible if

the appellant is deported to Pakistan. The appellant claims her husband has always depended upon her for his own personal care, and she has dedicated her life to him. She claims he would not be able to continue life in the UK without her.

90. On the evidence before us, we are satisfied that the appellant has a genuine and subsisting relationship with a qualifying partner. However, we do not accept the effect of the appellant's deportation on her partner would be unduly harsh. The appellant and her partner have been separated since their convictions and the sentences of imprisonment imposed. The contact the appellant maintains with her husband can continue as it has in recent years. On the very limited evidence before us, the appellant is a very long way indeed from establishing that the consequences for the appellant's husband would be of a sufficiently enhanced degree to outweigh the public interest in the deportation of the appellant.

91. The appellant's children are all over the age of 18 and are not therefore 'qualifying children' for the purposes of s117C(5). We are not satisfied that the appellant's genuine and subsisting relationship with her children is one which satisfies the test in s117C(5).

S117C (6) of the 2002 Act

92. The appellant therefore fails to meet the statutory exceptions to deportation in every respect and what she must show, if she is to avoid deportation on Article 8 ECHR grounds, is that there are very compelling circumstances, over and above those in the exceptions to deportation, which suffice to outweigh the public interest in deportation: s117C(6) of the 2002 Act.

93. The test in s117C(6) is a proportionality test, balancing the rights of the appellant against the public interest in her deportation. The scales are nevertheless weighted heavily in favour of deportation. Although the

appellant has not been sentenced to a period of imprisonment of four years or more, she does not fall beneath the statutory threshold for automatic deportation as a foreign criminal, and we consider that there is a cogent and strong public interest in her deportation.

94. Against the cogent public interest in deportation, the importance of which is underlined in primary legislation, we are prepared to accept the appellant has a strong family and private life in this country. We have no doubt the appellant enjoys a strong relationship with all her children, but the focus of the evidence before us was upon the impact of the appellant's deportation on the care and assistance she provides to her son Altaf in particular.
95. Altaf Ghauns states that he needs help as he walks with a limp, and often loses his balance. He claims he cannot cook his own meals, do his own ironing, or stand for long. He has difficulties with his balance. He confirms there is a wet room in the house because he would have difficulty climbing into a bathtub. He states that his mother always keeps an eye on him when he uses the bathroom.
96. Altaf Ghaums states that he experienced extreme emotional stress when he was separated from his mother when she was incarcerated. He suffered severe depression, and constant anxiety that caused him to suffer with nausea, sleepless nights and loss of appetite with consequential weight loss. He states his stress levels were so high, he suffered body numbness. He felt "lost and insecure" without his mother. He states that his brothers, sister and aunt helped look after him, but his brothers and sister all work, so they could not be around as much as the appellant previously was and could not give him the help he needed. He states that his aunt *"lives up the road and she came every day to help which was difficult for her as she has her own health problems"*. He claims that if the appellant was made to leave the UK, there would be no one else in the family to care for and assist him in the same way as his mother does. He said he does not feel safe and secure with other family members as they do not know of his

dietary or personal needs. There is no one he trusts to look after his health, personal and emotional needs, apart from his mother. He stated that if his mother is deported, he would be devastated, and it would impact upon his mental, physical and emotional well-being. He would be left frustrated and angry because no one apart from his mother understands and knows how to take care of him.

97. Whilst we accept, Altaf would prefer to receive the on-going assistance that he receives from the appellant, we have no doubt that he was adequately cared for when the appellant was incarcerated. Having heard the evidence, we are quite satisfied that his siblings and extended family rallied around to ensure that his needs were met, and we are quite satisfied that they would do so again, in the future.
98. We have carefully considered the expert report of Amy Goddard and note that Altaf is heavily reliant on his mother for support with all activities of daily living. However, in her professional opinion, which we accept, Altaf has the functional ability to complete more tasks than he currently does. There is a long-standing dependency on the appellant because she has always supported him, and the majority of this dependency on the appellant for support comes from long-term learnt behaviour. The significant psychological reliance on the appellant appears to outweigh his physical dependence. Amy Goddard acknowledges that during the appellant's time in prison, the wider family managed the best they could in the situation, albeit they were unable to care for him in the same way that the appellant did. Amy Goddard noted that the family confirmed they supported Altaf during the time the appellant was in prison and would do this again if they needed to. That was consistent with the evidence of the witnesses that we heard from. We accept it put some stress on their own lives as they would have had to juggle working full-time, caring for their own families and ensuring they maintain their own personal relationships and life. The evidence before us however is that the appellant's brother's Shaban and Mehran in particular, spend most of their time at the former

family home. They eat there each night and so Altaf would continue to have the emotional support of his brothers. There is no doubt that if the need arose, Altaf would have access to outside agencies to meet any unmet need for physical support.

99. In reaching our decision we have also had regard to the fact that the appellant expresses remorse and there is no evidence before us of any further offending. We have had regard to the letter provided by Councillor Paul Shotton and Saghawat Ul-Haq. We have taken into account the evidence before us regarding the appellant's on-going activities at the Darbar Unique Centre where she is said to play a very significant role.

100. In our final analysis, we find the appellant's protected rights, whether considered collectively with rights of others that she has formed associations with, or individually, are not in our judgement such as to outweigh the public interest in the appellant's removal having regard to the policy of the respondent as expressed in the immigration rules and the 2002 Act. We are satisfied that on the facts here, the decision to refuse leave to remain is not disproportionate to the legitimate aim of immigration control and we are obliged therefore, to dismiss his appeal on Article 8 grounds.

Article 3 ECHR

101. We then turn to consider whether the removal of the appellant would be in breach of Article 3 by reason of the appellant's mental health and because of the risk of suicide. In reaching our decision, we have again had regard to what is set out in the reports of Dr Waheed.

102. As far as the risk of suicide is concerned, it is now well established that what is required is an assessment of the risk at three stages, prior to anticipated removal, during removal, and on arrival. We have carefully considered whether the suicide risk is such that a removal of the appellant to Pakistan would be in breach of Article 3 by reference to the test set out

in J v SSHD [2005] EWCA Civ 629 as clarified in Y and Z (Sri Lanka) v SSHD [2009] EWCA Civ 362, noting in particular that giving the judgment of the court in Y and Z (Sri Lanka), Sedley LJ said:

“16. One can accordingly add to the fifth principle in J that what may nevertheless be of equal importance is whether any genuine fear which the appellant may establish, albeit without an objective foundation, is such as to create a risk of suicide if there is an enforced return.”

103. Dr Waheed states in his report dated 27th January 2022 (at page 8 of 19) that although the appellant’s mood was ‘moderately depressed’, there was no evidence of any current suicidal ideations or plans. There is no evidence before us of the appellant having actively self-harmed in the past.
104. Dr Waheed expresses the opinion that once the appellant is informed about her deportation to Pakistan, it will immediately lead to her coming under extreme stress resulting in a further worsening of her mental health, an increase in the frequency of her obsessive-compulsive behaviours and increased risk to herself. He is concerned that the suicide risk would increase manyfold. We have already accepted the diagnosis made that the appellant suffers ‘recurrent depressive disorder’ and that she also meets the diagnostic criteria for OCD. We give due weight to the opinions expressed by Dr Waheed.
105. Having considered the appellant’s evidence and the expert evidence before us, in the end, we do not consider the medical evidence, taken at its highest, demonstrates a real risk that the appellant would commit suicide in the UK. The appellant has the unstinting support of her children. We are quite satisfied the appellant and her children have a good insight into her mental health and that they know when and how to get help. When precautionary steps have had to be taken in the past, those steps have been taken. We find that any risk upon the appellant learning of any decision to remove her would be adequately managed in the UK by the support provided to the appellant by her children and the relevant

authorities. Any risk that manifests itself during removal, is capable of being managed by the respondent.

106. We therefore approach our assessment on the basis that it would be possible for the respondent to return the appellant to Pakistan without her coming to harm, but once there, she would be in the hands of the mental health services in Pakistan. The risk here, results from a naturally occurring illness. We acknowledge that an Article 3 claim, can in principle succeed, in a suicide case.

107. We have already referred to the provision of mental health services in Pakistan and we are satisfied the appellant would have access to treatment and services. Although the appellant's children are in the UK, we have found the appellant has some familial connections to Pakistan that she would be able to turn to. We accept the geographical separation from her children will not be without difficulty, but we find that the appellant's children, siblings, and friends in the UK, will also be able to provide some support to the appellant whilst she establishes herself in Pakistan, and she will be able to draw upon the comfort of that support. In the end, on the evidence before us, we are not satisfied that the appellant has established that there are substantial grounds for believing that she would face a real risk of being exposed to either a serious, rapid and irreversible decline in the state of her mental health resulting in intense suffering or the significant reduction in life expectancy as a result of either the absence of treatment or lack of access to such treatment. The 'suicide risk' is not in our judgement such that the removal of the appellant to Pakistan would be in breach of Article 3.

Notice of Decision

108. The appeal is dismissed on human rights grounds.

Signed **V. Mandalia**
2022

Date

16th September

Upper Tribunal Judge Mandalia