



Neutral citation number: [2024] UKFTT 00901 (GRC)

Case Reference: FT/IMS/2024/0002

**First-tier Tribunal  
(General Regulatory Chamber)  
Immigration Services**

**Heard by Cloud Video Platform  
Heard on: 1<sup>st</sup> October 2024  
Decision given on: 21 October 2024**

**Before**

**JUDGE MOAN  
MEMBER J RENSHAW**

**Between**

**ANZAN IMMIGRATION LAWYERS**

**and**

**OFFICE OF THE IMMIGRATION SERVICES COMMISSIONER**

Appellant

Respondent

**Representation:**

For the Appellant: Mr A Rahmanyfar

For the Respondent: Ms F Fadhl on behalf of the Commissioner

**Decision:** The appeal is dismissed.

**REASONS**

**Decision under appeal and background**

1. Paragraph 4A(e) of Schedule 6 to the Immigration and Asylum Act 1999 (as amended) requires the Commissioner to cancel an organisation's or person's

registration if he considers that the person is no longer competent or is otherwise unfit to provide immigration advice or immigration services. The Commissioner concluded that Mr Ali Rahmanyfar (adviser reference P055369) and Anzan Immigration Lawyers (OISC Reference F202100359) are no longer fit and competent to provide immigration advice and/or services. Following a complaint and investigation, the Commissioner cancelled the registration of Anzan Immigration Lawyers which included the OISC registration of Mr Ali Rahmanyfar. The decision was taken on 19<sup>th</sup> March 2024 and was to take effect on 17<sup>th</sup> April 2024.

### **Background to the appeal**

2. Mr Ali Rahmanyfar was the sole adviser at Anzan Immigration Lawyers and was registered with the OISC at Level 1 in the categories of Immigration and Asylum & Protection. A complaint was received from Mrs Adebimpe Odubela in January 2023 that she had been charged for legal services by Anzan Immigration Lawyers in relation to her asylum claim and had been misled by Mr Ali Rahmanyfar into believing that she had to pay before she could apply for asylum as only a lawyer could write her statement and present it to the Home Office. She claimed that she later found out that this was not the case and that others had received free legal advice. She further claimed that no services were provided by Anzan Immigration Lawyers. She sought a refund of the money she had paid to the Appellant.

### **The Regulatory Framework**

3. The OISC has divided immigration advice and services into three levels depending on the type and complexity of the work involved. The competence requirements increase with the intricacy of the work.

The three OISC levels of immigration advice and services are as follows:

- Level 1 – Advice and Assistance
- Level 2 – Casework
- Level 3 – Advocacy and Representation

4. The Guidance on Competence document produced by the Commissioner (2021) confirms that –

- (i) Level 1 advisers are permitted to make applications that rely on the straightforward presentation of facts to meet a set of qualifying criteria. Such applications will not be discretionary or concessionary in nature and applicants will not have an immigration history which is likely to adversely affect the application in question.

Where a case becomes complicated, or an application is refused an adviser must refer the client as soon as possible to an adviser authorised to practise at a higher Level.

- (ii) Level 1 advisers authorised in Asylum and Protection can undertake the following work:

- notifying UKVI of a change of address.
- straightforward applications to vary the conditions attached to leave granted, including conditions attached to bail granted by the Secretary of State, for example the right to work or study, restrictions on residence or reporting requirement.
- straightforward applications for leave in line, or refugee status in line for the UK born children of refugees and people with humanitarian protection.

No substantive asylum work, such as making applications or appeals, is permitted at Level 1.

- (iii) Drafting of statements for asylum claims are within the scope of a level 2 adviser.
- (iv) All levels of adviser must adhere to the Code of Standards 2016 which set out the standards that the OISC regulated advisers and organisations must meet.

### **The Commissioner’s investigation and conclusions**

5. The investigation of Mrs Odubela’s complaint by the Commissioner uncovered multiple breaches of the Code of Conduct as well as the provision of unregulated advice and assistance. The Commissioner also found that Mr Ali Rahmanyfar’s

father, Mr Hajibaba Rahmanyfar had provided immigration and services in connection with Mrs Odubela's case; he had been prosecuted on 4<sup>th</sup> April 2010 for providing unregulated immigration advice and his registration had been cancelled. The Commissioner found that Mr Ali Rahmanyfar and Anzan Immigration Lawyers had conducted work above Level 1, which was not authorised.

The following breaches of the 2016 Code of Standards were found to be substantiated by the Commissioner:

Code 3. Organisations and advisers must only act according to, and within, their authorisation.

Code 4. All organisations and advisers must remain fit and competent within the Level and Categories for which they are authorised.

Code 5. When giving immigration advice or immigration services, organisations and advisers must act competently.

Code 7. Advisers must clearly identify themselves when giving immigration advice or immigration services.

Code 8. Organisations must ensure that no unauthorised person(s) provide immigration advice or immigration services on their behalf.

Code 10. Organisations and advisers must not take advantage of a client's or a prospective client's vulnerability.

Code 11. Organisations and advisers must not mislead their clients or prospective clients.

Code 12. Organisations and advisers must always act in their clients' best interests subject to regulatory and legal requirements.

Code 24. The adviser must take reasonable steps to ensure that the prospective client understands the contents of their client care letter before being asked to agree it. The organisation should not do any further work until the client care letter has been agreed, other than in exceptional circumstances.

Code 25. An organisation must keep a record of the client's agreement to their client care letter either by way of a signed and dated copy of the letter or evidence of their agreement electronically.

Code 26. A client care letter must contain:

e. confirmation that if client money is held by the organisation on behalf of the client, such money remains the clients until the client is invoiced and payment is due,

f. information explaining what, if any, additional costs may be incurred for which the client may become liable.

Code 29. Organisations and advisers must ensure that each of their clients is kept regularly informed in writing of the progress of their case and, at a minimum, receives an update every three months.

Code 53. In respect of each client or prospective client, advisers must maintain an adequate record of all interactions.

Code 54. Records of actions undertaken on behalf of a client must clearly indicate the name of the adviser who has given the advice or done work on the client's behalf.

Code 55. An organisation must have and operate an effective file management system which enables it to keep clear, orderly, and accurate records of all contacts and dealings with clients and others relevant to its clients' cases. These records must be held securely, and records relating to a particular client or former client must be accessible to the client and to the Commissioner.

Code 61. An organisation that charges for its immigration advice or immigration services must only charge a reasonable fee that directly relates to the work done. It must not charge a fee for work that is unnecessary or unauthorised by the client.

Code 62. An organisation must submit a written invoice to the client when it requires payment.

Code 64. Where an organisation takes money in advance or holds money for a client, such money must be held in a distinct client account and this account must be kept separate from the organisation's business account.

Code 67. An organisation which takes monies and/or fees must provide written receipts for the money taken and keep accurate accounts, including a written record of every transaction undertaken for each of its clients.

### **Appellant's grounds of appeal**

6. In his written grounds of appeal dated 20<sup>th</sup> March 2024, Mr Ali Rahmanyfar submitted that:
  - (a) He had always worked within the limits of his authorisation and had not breached the rules. He had many clients who were happy with his services, was reliable and worked for his client's best interests.
  - (b) He had only helped Mrs Odubela write down her case as she had requested. When he realised the case was outside his authorisation, he had referred her to a solicitor.
  - (c) There was a contradiction in that Mrs Odubela said she had not received any services and the Commissioner said that he had provided services outside of his authorisation.
  - (d) Mrs Odubela knew the firm was fee-paying at the outset but said she was willing to pay for their services. She had been advised that she could get legal aid once she claimed asylum. Mrs Odubela was simply trying to get a refund.
  - (e) He and Mrs Odubela became friends at university and she asked if he could keep some money for her in his bank account as her account was closing. He kept her money in his bank account until he became an immigration adviser. The transaction was before his registration date.
  - (f) Mrs Odubela spoke to his father, Mr Hajibaba Rahmanyfar as a family friend; he was not involved in her case.

- (g) The UK Scholars business was not active at all as he got registered quickly with the OISC.
  - (h) He had to learn how to manage the firm and was inexperienced at the time.
  - (i) The initial payment of £ 2500 was kept in his bank account and the second payment was for her consultations. She had paid £ 4500 in total; she had not paid another £ 1000.
  - (j) He had provided a certificate of good standing to become registered as a foreign lawyer with the SRA.
7. The Appellant exhibited a certificate of good standing issued by the Central Bar Association of Iran dated 5<sup>th</sup> April 2023. He also attached messages of praise from previous clients and copies of previous successful applications that had been made.

#### **Procedural matters relating to the determination of the appeal**

8. The Tribunal considered the bundle (236 pages) prepared by the Respondent. The Appellant confirmed that he had a copy of the bundle. All parties confirmed that we had all the necessary information to hear the appeal.
9. The hearing was attended by the Appellant in person and Ms Fadhl on behalf of the Commissioner.
10. The hearing took place remotely via video (CVP). There were no objections to this as a suitable method of hearing.
11. I heard evidence from Mrs Odubela, Ms Denness and the Appellant, Mr Ali Rahmanyfar.

#### **The Legal Framework**

12. Part V of the Immigration and Asylum Act 1999 regulates immigration advisers and immigration service providers and established the Immigration Services Commissioner. The Act prohibits the provision of immigration advice or services by those who are not qualified to do so and contravention is an offence. A person may be qualified via their membership of a professional body (such as the General Council of the Bar or the Law Society of England and Wales) or by being registered. Paragraph 2 of Schedule 6 provides that if the Commissioner considers that an applicant is competent and otherwise fit to provide immigration advice and immigration services, he must register the applicant. Paragraph 2(2) provides that registration may be subject to certain limitations.

13. Schedule 5 of the Act gives the Commissioner the power, after consultation, to make rules with regard to the professional practice, conduct and discipline of registered advisers and their employees or those supervised by them in connection with the provision of immigration advice or services. The Commissioner publishes a Code of Standards which may be amended from time to time and is available on their website for inspection. Under the same schedule, it is the duty of any person to whom the Code applies to comply with its provisions in providing immigration advice or immigration services.

14. Schedule 5 also provides for a complaints scheme which may be initiated by third party complaint or where the Commissioner investigates matters that would amount to a complaint, albeit on his own initiative.

15. Under paragraph 4A of Schedule 6 –

*4A The Commissioner must cancel a person's registration if–*

*(a) the person asks for it to be cancelled;*

*(b) the person dies (in a case where the person is an individual) or is dissolved or wound up (in any other case);*



*(c) the person is convicted of an offence under section 25 or 26(1)(d) or (g) of the 1971 Act;*

*(d) under section 89(2A)(b) the First-tier Tribunal directs the Commissioner to cancel the person's registration; or*

*(e) the Commissioner considers that the person is no longer competent or is otherwise unfit to provide immigration advice or immigration services.*

16. The duty of the Commissioner is bolstered by section 83(5) of the Act which provides that –

*The Commissioner must exercise his functions so as to secure, so far as is reasonably practicable, that those who provide immigration advice or immigration services –*

*(a) are fit and competent to do so;*

*(b) act in the best interests of their clients;*

*(c) do not knowingly mislead any court, Tribunal or adjudicator in the United Kingdom;*

*(d) do not seek to abuse any procedure operating in the United Kingdom in connection with immigration or asylum (including any appellate or other judicial procedure);*

*(e) do not advise any person to do something which would amount to such an abuse.*

17. Section 87 of the Act allows for a person aggrieved by a decision of the Commissioner to appeal to the First-Tier Tribunal. Section 88 provides that on appeal, the First-tier Tribunal may, if it allows an appeal, direct the Commissioner to: register the applicant or to continue their registration; make or vary the applicant's registration so as to have limited effect pursuant to paragraph 2(2) of Schedule 6; or to quash a decision recorded under paragraph 9(1)(a) of Schedule 5 and the record of that decision.

18. In the case of **Visa Joy Limited v OISC [2017] EWCA Civ 1473** the Court of Appeal determined that –

*(i) The process of evaluation by the Commissioner, and if necessary, on appeal by the Tribunal, is one of assessing fitness and competence. It is not narrowly*

confined solely to determining whether one or other specific 'charges' are established (para 40).

(ii) An appeal to the First-Tier Tribunal under s 87 is to be a full appeal and not simply a review of the exercise by the Commissioner of his/her decision-making power. It is necessary for the First-Tier Tribunal to determine for itself whether the Commissioner's decision was right and to determine (as will normally be the case) whether the applicant is, at the date of the Tribunal hearing, fit and competent to provide immigration advice and services (para 42). In undertaking an appeal under s 87 the Tribunal will consider all relevant and admissible evidence, whether or not it was known to, or taken into account by, the Commissioner when making his own decision on the issue of continued registration. In doing so the Tribunal will not be bound by decisions made by the Commissioner on past complaints (para 43).

(iii) The question for the First-Tier Tribunal on appeal is whether the appellant is considered to be competent and otherwise fit to provide immigration advice and immigration services (para 44).

(iv) Although a registered person may not appeal in isolation against an adverse finding made by the OISC on a complaint which is recorded against him under Schedule 5, paragraph 9(1)(a), where, in the course of an appeal against a 'relevant decision' (relating to registration) under s 87, the Tribunal determines that a complaint should no longer be on the appellant's record it may direct the Commissioner to quash the complaint decision (s 87(2)(d)). The Tribunal must have jurisdiction to re-open the OISC determination on a complaint and consider the underlying evidence. In the course of an appeal hearing the First-Tier Tribunal can (and if it is a ground of appeal, must) decide for itself whether a complaint finding is correct (para 45)

## **Analysis of the evidence**

19. There is information for applicants on the Commissioners website –

### ***Fitness***

*An individual or organisation will be considered 'fit' to provide immigration advice and/or services if they can sufficiently demonstrate to the Immigration Services Commissioner that there is:*

- *the likelihood of compliance with OISC's Regulatory scheme*
- *a history of honesty and legal compliance*
- *a history of financial probity*

*The commissioner's [guidance on fitness for advisers](#) and [guidance on fitness for owners](#) explains how a person can demonstrate that they meet the requirement of fitness and how he will assess this.*

*The commissioner provides [guidance](#) on the approach taken to advisers and applicant advisers that have a criminal conviction(s).*

### ***Competence***

*An individual or organisation will be considered competent to provide immigration advice or services if they can sufficiently demonstrate to the commissioner the necessary knowledge and skills required to meet the needs of clients seeking immigration advice or services at a specified advice level and category. This includes an organisation's capability to act competently in the manner in which it operates its business.*

*The commissioner recognises 3 distinct advice levels of competence. Details of these levels, the work permitted at each level and the relevant knowledge and skills required are set out in the [regulator's guidance on competence](#).*

20. This is not a statement of law but a statement of policy and a guide to the expectations of the Commissioner and what factors will be considered. The Guidance indicates that the Commissioner will consider, amongst other factors, the following –

*4. If the person has been, or is currently, the subject of any investigation or disciplinary proceedings or any potential proceedings or investigation which might lead to such*

*proceedings by the OISC or by other regulatory authorities, professional bodies or government bodies or agencies in the UK or abroad*

*5. If the person has committed serious, several or repeated breaches of the OISC's regulations or the equivalent standards or requirements of other regulatory authorities, professional bodies, or government bodies or agencies*

*6. If the person has been the subject of any substantiated complaint relating to regulated activities.*

21. The Commissioner had produced two witness statements – the statement of Mrs Adebimpe Odubela dated 27<sup>th</sup> June 2024 and the statement of Lorna Denness dated 28<sup>th</sup> June 2024. Mrs Odubela confirmed that there had been a typo with her name at the end of her statement and that the statement was hers, and was true to the best of her knowledge and belief.

22. In her witness statement, Mrs Odubela stated that she was in the UK on a student visa and had met Mr Ali Rahmanyfar during classes. After mentioning to Mr Ali Rahmanyfar that she was fearful of returning to Nigeria, she had been advised by Mr Ali Rahmanyfar that he worked at an immigration firm owned by his father and that she should apply for asylum. She was led to believe by Mr Ali Rahmanyfar that she had to pay for a lawyer to write her statement to the Home Office before she could make that application. The fee quoted by Mr Ali Rahmanyfar for his assistance was £ 5500 which she paid by three instalments. She was subsequently advised by Mr Rahmanyfar to liaise with Migrant Help which she did until she got an appointment for a screening interview. After her screening interview she was advised to get asylum support and stop working. After moving to emergency accommodation, she was granted asylum support and she discovered that other asylum seekers had received free legal representation, including assistance with their asylum support claim. The British Red Cross assisted Mrs Odubela to get legal aid.

23. The Red Cross had advised her to demand a refund from Mr Ali Rahmanyfar but Mr Ali Rahmanyfar said he would only refund £ 500 out of the £ 5500 paid. Mr Ali Rahmanyfar and Anzan Immigration Lawyers did not respond to the British Red Cross about monies paid and Mrs Odubela complained to the Commissioner. She said that Mr Ali Rahmanyfar/Anzan Immigration Lawyers had denied that she had paid them at all until she produced the receipts.
24. She said that her family had been traumatised and that she had been misled. She had waited unnecessarily without progressing her asylum application, and her mental health had deteriorated. Her children had lost time in school and her husband developed high blood pressure. She sought a refund of the £ 5500 paid.
25. Lorna Denness confirmed in her statement dated 28<sup>th</sup> June 2024 that she is the Regional Officer with the Commissioner and part of her role involves investigating complaints. She confirmed that all advisers and organisations who are registered by the OISC are governed by the Commissioner's Code of Standards (2016) and a number of Guidance and Practice Notes, which were available on the OISC website.
26. Ms Denness confirmed in her written statement that Mrs Odubela had made a complaint on 25<sup>th</sup> January 2023 which she investigated. Mrs Odubela had provided receipts showing payments of £ 2250 on 3<sup>rd</sup> November 2021 and £ 2250 on 24<sup>th</sup> December 2021. She also produced an invoice from Anzan Immigration Lawyers dated 14<sup>th</sup> December 2022 for £ 4000.
27. Mr Ali Rahmanyfar had produced to Ms Denness a letter to Mrs Odubela dated 20<sup>th</sup> December 2021, an invoice dated 22<sup>nd</sup> December 2021, and payment acknowledgement dated 27<sup>th</sup> December 2021 as well as some notes.
28. Ms Denness confirmed with Mrs Odubela that she observed that both Mr Ali Rahmanyfar and his father Mr Hajibaba Rahmanyfar were directors of Anzan

Immigration Lawyers, however, Mr Hajibaba Rahmanyfar's registration was cancelled previously for giving unregulated advice.

29. Ultimately the Commissioner determined that the registration of Anzan Immigration Lawyers and of Mr Ali Rahmanyfar should be cancelled. The Appellant lodged an appeal on 21<sup>st</sup> March 2024.

30. Mrs Denness responded to the appeal grounds in the following way –

(a) Mr Ali Rahmanyfar stated in his appeal grounds that he had only acted within his authorisation. Mr Ali Rahmanyfar was a Level 1 adviser in the categories of immigration and asylum & protection. At this level of registration Mr Ali Rahmanyfar was not permitted to undertake any substantive asylum work. The Commissioner's Guidance on Competence (2021) was very clear on this point. The work that Mr Ali Rahmanyfar completed on Mrs Odubela's behalf constituted a substantive piece of asylum work, which was not permitted at Level 1 and as such Mr Ali Rahmanyfar had exceeded his level of competence and acted above his level of authorisation.

(b) As part of investigating Mrs Odubela's complaint a copy of the UKBA/Home Office's application list was obtained. The extract showed that a number of asylum applications had been submitted by Anzan Immigration Lawyers over a period of years, both during and outside of this period of registration with the OISC. These applications were above the authorisation level of Anzan Immigration Lawyers and Mr Ali Rahmanyfar.

(c) Mr Ali Rahmanyfar stated in his appeal grounds that there was a contradiction between the OISC finding that he had acted above his authorisation level and Mrs Odubela stating that he had not completed any work or provided any services to her. In conducting numerous consultations both in person and over the telephone and in completing a case statement for Mrs Odubela's asylum

claim, Mr Ali Rahmanyfar had undertaken a substantive piece of asylum work. This was work that was not permitted at level 1 therefore the OISC believed that Mr Ali Rahmanyfar had completed work above his authorisation level. The work undertaken by Mr Ali Rahmanyfar was unnecessary and unhelpful to Mrs Odubela's asylum claim and merely replicated work that the Asylum Intake Unit (AIU) would have completed in a timelier manner and at no cost. In this sense, Mr Ali Rahmanyfar had not acted as a fit and competent immigration adviser would have done and had failed to provide his client, Mrs Odubela, with appropriate advice and services. The amount that Mrs Odubela had been charged, which the OISC contends was £5,500.00, was an unreasonable amount because the work undertaken was unnecessary, above Mr Ali Rahmanyfar's authorisation level and incompetently completed.

(d) Mr Ali Rahmanyfar had stated in his appeal grounds that Mrs Odubela knew that Anzan Immigration Lawyers were a fee-paying firm and he informed her that she could obtain Legal Aid once she claimed asylum. At the first and only initial consultation that should have taken place, Mr Ali Rahmanyfar had two options as a Level 1 adviser, he could have signposted Mrs Odubela to a Legal Aid firm or he could have arranged an appointment at the Home Office's AIU. After this Mr Ali Rahmanyfar's involvement in Mrs Odubela's asylum case should have ceased. Mr Ali Rahmanyfar continued to provide immigration advice and services that he was not authorised to provide and charged Mrs Odubela an unreasonable amount.

(e) Mr Ali Rahmanyfar had stated in his appeal grounds that he did not provide immigration advice or services to Mrs Odubela prior to his date of registration with the OISC. Mr Ali Rahmanyfar stated that the payment Mrs Odubela made on 3<sup>rd</sup> November 2021 of £2,500.00 was made into his account because he was looking after this money for her, because she was his friend. Mr Ali Rahmanyfar stated that he held this money in his bank account until he became registered. The payment receipt provided by Mrs Odubela to the OISC

with her complaint showed that the sum of £2,250.000 was paid into the business account of Anzan Centre which was the previous name of Anzan Immigration Lawyers.

- (f) Mr Ali Rahmanyfar was asked to explain the discrepancies between the copy of the invoice dated 22<sup>nd</sup> December 2021 provided by Anzan and the invoice dated 14<sup>th</sup> December 2022 provided by Mrs Odubela. Mr Ali Rahmanyfar was also asked to explain how the sum charged to Mrs Odubela has been arrived at. Mr Ali Rahmanyfar, in both of his written responses to the statement of complaint, and in his initial response to the notice of Mrs Odubela's complaint failed to mention that prior to taking instruction from Mrs Odubela he had been looking after her money for her. Mr Ali Rahmanyfar stated in his appeal grounds that he did not ascertain the provenance of the money Mrs Odubela asked him to look after for her. A sum of £2,2500.00 was paid by Mrs Odubela on 3<sup>rd</sup> November 2021, this was 15 days prior to Mr Ali Rahmanyfar being registered with the OISC on 18<sup>th</sup> November 2021.
- (g) The Commissioner's Guidance Notes on Fees and Accounts (May 2022) mentions money laundering and the Commissioner's Code of Standards (2016) was clear about advisers' responsibilities and duties in relation to all financial matters and the utmost importance of financial probity. The actions of Mr Ali Rahmanyfar in holding money for a third party raise serious concerns over his fitness in this regard.
- (h) In his appeal statement, Mr Ali Rahmanyfar stated that he was a good friend of Mrs Odubela and that they met at university. In his responses to the statement of complaint, Mr Ali Rahmanyfar does not mention this friendship. Mr Ali Rahmanyfar stated in his responses to the statement of complaint and in his initial response to the notification of the complaint that Mrs Odubela made contact with his firm Anzan Immigration Lawyers by telephone and that she requested his help with her asylum claim.



- (i) Mr Ali Rahmanyfar has stated in his appeal statement that his father was merely present in the offices of Anzan Immigration Lawyers and that his father, Mr Hajibaba Rahmanyfar was a Registered Foreign Lawyer (RFL), who would chat with Mrs Odubela. Whereas Mrs Odubela claims that she was, on occasion, advised by both Mr Ali Rahmanyfar and Mr Hajibaba Rahmanyfar. Mr Hajibaba Rahmanyfar would have to seek to be registered with the OISC before he could give immigration advice from a fee charging OISC registered organisation.
- (j) The website of Anzan Immigration Lawyers details both Mr Ali Rahmanyfar and Mr Hajibaba Rahmanyfar as directors of Anzan Immigration Lawyers and carries a photographic image of Mr Hajibaba Rahmanyfar. The OISC has received no request or application for Mr Hajibaba Rahmanyfar to be registered with the OISC. The OISC previously took action against Mr Hajibaba Rahmanyfar for providing unregulated immigration advice. The OISC contends that Anzan Immigration Lawyers was actually a vehicle for Mr Hajibaba Rahmanyfar to continue to provide unregulated immigration advice, and as such Mr Ali Rahmanyfar has enabled and allowed an unregulated immigration adviser to give advice.
- (k) In his application for initial registration with the OISC Mr Ali Rahmanyfar was specifically asked whether he had any significant interests in any other businesses and he failed to disclose the existence of UK Scholars Academy, a business in which both he and Mr Hajibaba Rahmanyfar were directors of. In subsequent continued registration applications Mr Ali Rahmanyfar has been asked to disclose all other business interests and failed to do so. In the applications for initial registration and subsequent continued registrations application Mr Ali Rahmanyfar was asked to give details of all other people with a significant interest in Anzan Immigration Lawyers but failed to do so.

- (l) In his application to the SRA to become a registered foreign lawyer Mr Ali Rahmanyfar failed to disclose that he was the subject of an OISC complaint investigation. In Mr Hajibaba Rahmanyfar's application to be a registered foreign lawyer with the SRA he failed to mention his previous prosecution by the OISC for giving unregulated advice.
  
- (m) A recent check on Companies House showed that Mr Ali Rahmanyfar and Mr Hajibaba Rahmanyfar have re-registered their old business entity Pars Community Action Ltd (Companies House Number 15548396). This organisation was previously subject to compulsory strike off action and was cancelled by the OISC.
  
- (n) The Home Office application list indicated that despite cancellation of registration, both previously and more recently on 19<sup>th</sup> March 2024 Mr Ali Rahmanyfar and Mr Hajibaba Rahmanyfar have continued to provide unregulated immigration advice. The Home Office list also detailed a number of asylum application cases that have been submitted by Anzan Immigration Lawyers, which was work above their authorisation level. The Home Office list also detailed two cases that were submitted on 18<sup>th</sup> September 2021 and 28<sup>th</sup> October 2021, these are both prior to the date of 18<sup>th</sup> November 2021 which was the date Anzan Immigration Lawyers were first registered with the OISC.

31. The Appellant produced the following evidence -

- (i) A statement from his father Mr Hajibaba Rahmanyfar dated 6<sup>th</sup> August 2024. In this statement, whilst he acknowledges that Mrs Odubela was a classmate of his son's and that she came to the centre to speak with Mr Ali Rahmanyfar about her asylum matter, he did not comment upon the allegation that he was involved in those discussions and gave advice to her.

- (ii) A statement from Milan Slisko dated 5<sup>th</sup> August 2024 commending the service he received from the Anzan Immigration Lawyers. There was a similar letter from Abdullah Syed dated 5<sup>th</sup> August 2024
- (iii) An undated witness statement from Mr Ali Rahmanyfar produced during the currency of the appeal. He blamed Mrs Odubela for not understanding the limitations of his authorisation. He said that the issues arose because she failed to provide the necessary documentation and follow-up. He referred her to solicitors who could assist her beyond his authorisation level. He said he provided all possible assistance within scope. He had acted in her best interest by referring her to solicitors and ensuring she had proper advice. He said he had been transparent about his fees and her money. She had paid the fees willingly and had not made the final payment. There was no evidence of the first £ 1000 payment.

32. Mr Ali Rahmanyfar said that he maintained accurate and detailed records of all interactions with Mrs Odubela. He had submitted 40 pages of notes. He reiterated his account of keeping money in his account for her and that he had completed the case statement required. He said that he acted in her best interests and in accordance with expectations of his level of competence. She had frequently visited the offices which was also registered to provide translation services that he managed with his father. He said that the final invoice (December 2022) was issued upon completing the statement. He said he had adhered to the Codes of Conduct.

33. Mrs Odubela was a generally credible witness, although there were some aspects of her evidence that the Tribunal considered implausible. It was clear that she was expecting Mr Ali Rahmanyfar to provide her with advice, complete the necessary statement for the asylum claim and provide ancillary help with her protection claim and that she believed that it was necessary to pay for this work prior to being able to claim asylum. Ultimately, she did not receive what she was

expecting. Whilst she referred to receiving no services at all, it was clear from the manuscript notes provided by Mr Ali Rahmanyfar about her material claims that he had taken notes to prepare an initial statement of evidence for her claim. It was also apparent from those notes at page 129 that he had called the Asylum Intake Unit to notify them that Mrs Odubela wanted to claim asylum. This is implicit from the notes on file that included the relevant telephone number, the information needed to book a screening interview and importantly the five-digit reference number provided by the UKVI after the call (in this case 98212). Mrs Odubela was adamant that she had arranged the screening interview herself and stated during the hearing that the evidence for this was that the UKVI had called her back not Mr Ali Rahmanyfar. However, it is standard practice for the Home Office to contact the client direct about the screening interview after the initial referral, even though that referral might be made by representatives on her behalf and we find that it is what is most likely to have happened in this case.

34. Mrs Odubela said in her oral evidence that Mr Ali Rahmanyfar had not sat with her and discussed her claim at their offices. She accepted that she had visited twice but was less than clear about what occurred during those visits; she said that she could not remember what happened when she was there and later said she was asked questions by his father although no notes were taken. She did not deny that the information in the file notes about her claim was correct but suggested that Mr Ali Rahmanyfar had gathered information from her whilst chatting on Zoom as part of their course. That seemed unlikely given the level of detail provided and the Tribunal considered that it was more likely than not that there had been some attendance on her at the office to get the relevant information about her protection claim. In that regard, Mr Ali Rahmanyfar had undertaken some work on her case. However, Mrs Odubela was not expected to know the boundaries of what Mr Ali Rahmanyfar could do for her or that she may be able to get the same assistance from an appropriately qualified person and possibly without payment. Whether she would have been eligible for legal aid or for 'free

advice' from another organisation at that time is unclear as the family's income and savings is unknown.

35. Mrs Odubela's answers about the disputed £ 1000 payment were less than satisfactory. Noting that it was her position that £ 1000 was paid between September and November 2021, and that she had been able to evidence payments made in November and December 2021, it was concerning that she was not able to give much detail about that payment or evidence it being paid. She could not remember where the payment was made from and it did not appear that any enquiries had been made with the bank to provide a statement of the account, even if it had been closed as she suggested. The client care letter referred to a fixed fee of £ 5000 and so it was unclear why she would pay more than the fee agreed, if the agreed fixed fee was indeed £ 5000. The Tribunal was not satisfied that £ 5500 was paid and find that it was more likely than not that £ 4500 was paid.

36. Mrs Odubela claimed not to have received the client care letter and said she did not sign such a letter. There was no evidence of a signed retainer or a record of a conversation with her agreement to proceed and undertake work on her behalf. Noting the other failures with record-keeping, it was highly likely that she did not sign any retainer.

37. Ms Denness was a credible witness who, in the opinion of the Tribunal, had undertaken a thorough investigation. She confirmed that the Tribunal had been provided with all the information from the client file that she had been provided with; there was no retainer or attendance notes supplied. She was clear that taking a witness statement for the purposes of an asylum claim was Level 2 work and that Mr Ali Rahmanyfar should have referred Mrs Odubela to a legal aid firm or to Refugee Action. She was not unduly concerned that he had made the initial call to the Asylum Intake Unit but she was very clear that Mr Ali Rahmanyfar could not do any substantive work on her protection claim, and that he had done so. She said that it was clear from his client care letter that he was attempting to

assist with her asylum claim and his notes confirmed the same. The client care letter referred to developing and writing a case statement and advising her as regards her asylum claim. Mr Ali Rahmanyfar repeatedly said that Mrs Odubela was happy to pay for his services, but whether that was true or not, and it did appear that she was happy to pay his fixed fee at the time, he was not allowed to provide those services and she was not clearly advised that this was the case.

38. Ms Denness said that Mrs Odubela could not be expected to know the limits of Mr Ali Rahmanyfar's authorisation. Apart from advising her that he could not assist her with an asylum claim and signposting her to where she could get help, he could not offer any further services. The fees claimed for his services were grossly excessive and the services unnecessary.

39. We also heard oral evidence from Mr Ali Rahmanyfar. Despite the OISC submissions, the competence structure, his own acceptance that he was developing Mrs Odubela's asylum case and writing a case statement; he did not accept that he had acted outside of his authorisation. Mr Ali Rahmanyfar showed no insight into this even during the appeal hearing. He accepted that he was the only person able to give advice at Anzan Immigration Lawyers. He said he was aware of the Code but maintained that he had not done anything wrong.

40. Mr Ali Rahmanyfar said that he was just going to write down her statement (not submit it) and that her own solicitor would need to confirm the statement. He had not just done a manuscript statement, he had started to do country research, he had prepared what appeared to be a list of asylum interview questions and he had advised her that he would be assisting in the presenting of her case and advise therein. When questioned by the Tribunal about the purpose of this case statement and whether it was intended for submission to the UKVI, he said that solicitors who were later instructed by Ms Odubela would take their own instructions and draw up a statement accordingly. He was likely to have spent a couple of hours getting initial instructions from Mrs Odubela for this case

statement but it appears that there was little or no value to Mrs Odubela in the work that he was doing, as it would undoubtedly have to be undertaken again when she instructed solicitors/regulated advisors.

41. Mr Ali Rahmanyfar was also asked about the extensive list of questions on page 134 which appeared to be a pre-emptive list of asylum interview questions. He said he asked Mrs Odubela those questions in order to write her statement. Having read the questions that was very highly unlikely, not least because some of the questions actually refer to the contents of the statement. It is more likely that these were questions designed to prepare Mrs Odubela for a Home Office interview which is clearly substantive asylum work. Mr Ali Rahmanyfar was not credible as far as his evidence on that issue was concerned.
  
42. From the notes, it appeared, that Mrs Odubela was referred to solicitors in July 2022. There was some dispute in the evidence of Mrs Odubela as to whether she contacted the solicitors or whether Mr Ali Rahmanyfar contacted them on her behalf, she said without her consent. From the notes, we concluded that Mr Ali Rahmanyfar referred her on 29<sup>th</sup> July 2022 to solicitors. This was nine months after she initially instructed Anzan Immigration Lawyers. It is acknowledged that there can be delays in finding and instructing immigration solicitors, but that process started far too late and unnecessarily so.
  
43. Mr Ali Rahmanyfar said that he did not refer to his father being a top immigration lawyer but acknowledged he was in the office when Mrs Odubela came for consultations. He was there because of translating services that he offered and was based in the same office building. There was little reason for Mrs Odubela to state that his father was involved in consultations when he was not; it would not have been apparent to her that Mr Hajibaba Rahmanyfar was not able to give immigration advice or services.

44. Mr Ali Rahmanyfar was cross-examined about the Home Office list of applications before registration, for asylum matters and after his registration was cancelled. He strongly disputed the accuracy of that list and said he had undertaken 15 to 20 applications during the period that he was registered and these were mainly visit visas, spousal visas and naturalisations. He was adamant had never made a skilled worker application which appeared frequently on the list of applications provided by the Home Office. He also said that he had not submitted any asylum applications at all, despite this also being recorded on the Home Office list.
45. The evidence from Mr Ali Rahmanyfar about Mrs Odubela asking him to keep money for her as a friend when she paid him on 3<sup>rd</sup> November 2021 prior to registration was simply not credible. He described them as good friends and that he would help her although he also said he would not put the funds into his personal account albeit he gave no reason for that contradiction. If they had been good friends, he would have put the money in his own account and not that of the business. The payment on 3<sup>rd</sup> November 2021 strongly supported a finding that Mrs Odubela had instructed him prior to registration. Equally there was no record of the money being moved from whatever account it was initially being held in at Anzan into the client account in accordance with Mr Ali Rahmanyfar's account that she later told him that he could keep the money for whatever he needed to do for her.
46. The original invoice dated 14<sup>th</sup> December 2021 was for £ 4500. The invoice noted 10 hours of consultation at £ 150 per hour, 5 hours of out-of-hours consultation at £ 300 per hour and a case statement preparation fee of £ 1000. There were also 3.2 units of calls at £ 150 per hour which amounted to £ 500. The second invoice dated 14<sup>th</sup> December 2022 was for £ 4000. In effect, the £ 500 of calls had been removed. Mr Ali Rahmanyfar accepted that he had given Mrs Odubela a £ 500 discount and that the second invoice had been issued following her request for a refund.



47. I asked Mr Ali Rahmanyfar how he was able to predict in December 2021 that Mrs Odubela would require 5 hours of out-of-hours consultations noting that the charging-out rate was double that of consultations during office hours. He said that she had told him that as a student she was not usually available in the day and was happy to pay for out of hours consultations. We found that evidence unrealistic and unreliable noting the dates and times of her daytime consultation as provided by Mr Ali Rahmanyfar. Mrs Odubela said she had visited the office twice. The work undertaken for her was consistent with two consultations. It may have been the case that some preparation was undertaken on her statement/case after the consultation but there was little to evidence the number of client consultations claimed. There were no notes on the file to evidence that work done was preparation or work on the file.

48. Mr Ali Rahmanyfar accepted in his evidence that there were no proper attendance notes. He said that at that time he was new to the business and he had not got a system in place; he said that he had a system now.

### **Findings of the Tribunal**

49. It was not disputed that Anzan Immigration Lawyers were registered from 18<sup>th</sup> November 2021 to provide immigration services which included the registration of Mr Ali Rahmanyfar as their sole advisor. It was also not disputed that Mrs Odubela paid £2250 to Anzan Centre on 3<sup>rd</sup> November 2021 and a further £ 2250 in December 2021. It was also agreed that Mrs Odubela was consulting the Appellant about a potential asylum claim and that this was clear from the outset.

50. Objectively and without assessing the oral evidence of the parties, it was very clear to the Tribunal that **Mr Ali Rahmanyfar was undertaking level 2 work which was beyond his authorisation in the preparation of an asylum case statement in breach of Code 3**, whether he proposed to submit it to the Home

Office or send it to a level 2 authorised organisation/person to submit. Record keeping of Anzan Immigration Lawyers was also very poor.

51. Anzan Immigration Centre was a previous trading name of Anzan Immigration Lawyers. The bank account of Anzan Immigration Lawyers is under the name of Anzan Centre. Anzan Immigration Lawyers is the OISC registered entity. A Monese Bank transaction statement shows that on 3<sup>rd</sup> November 2021, Mrs Odubela paid £2,250.00 via bank transfer to Anzan Centre. Mr Ali Rahmanyfar initially applied to the OISC for registration on 10<sup>th</sup> September 2021 under the business name of Anzan Centre. This business name was subsequently changed to Anzan Immigration Lawyers. Both money transfers were made into the business account.

52. Mr Ali Rahmanyfar accepted that Mrs Odubela paid £ 2250 prior to his registration on 3<sup>rd</sup> November 2021. The response from Mr Ali Rahmanyfar that she asked him to keep money for her was not credible; they were colleague students on the same course and not long-standing friends. The payment was made to Anzan Centre. Had it been a personal arrangement, the monies would not have been paid to Anzan Centre but to Mr Ali Rahmanyfar's personal account. The later payment was also paid into the same account and for exactly the same amount. Paying money into the business account would have to be accounted for in the financial statements. The Tribunal was satisfied that the payment on 3<sup>rd</sup> November 2021 was towards the payment of professional fees and that the payment was prior to registration. Even if the Tribunal accepted Mr Ali Rahmanyfar's explanation, that would raise some concerns about his accounting and possible money laundering. **Code 64 requires monies paid to be held in a separate client account, keep accurate accounts and a written record of transactions. This was not done.**

53. Mrs Odubela said in her original complaint that she paid £ 1000 from an online account which was now closed and for which she did not have confirmation. The

other two payments were evidenced and not disputed by Mr Ali Rahmanyfar but the additional £ 1000 was disputed. Mrs Odubela could not provide any details about this payment, when it was made, from what account and it appeared that no efforts had been made to trace details or evidence of that payment. The Tribunal concluded that Mrs Odubela had paid £ 4500 for professional services which accorded with the 2021 invoice. It is noted that Mr Ali Rahmanyfar quoted a fixed fee of £ 5000 in the client care letter. Mrs Odubela thought the fee was £ 5500. The Tribunal was unclear why Mrs Odubela would pay £ 5500 when the fixed fee quoted was the lower figure of £ 5000 in any event although it would be consistent with her narrative that the fee was £ 5500. There was no cogent evidence about the fee quoted noting that Mrs Odubela said that she did not receive the client care letter and there was no acknowledgement from her upon receipt of that letter. Noting that statements can be obtained even from closed accounts and the lack of reasonable explanation why this payment was not evidenced or evidence of the payment sought, the Tribunal was not satisfied that the additional £ 1000 had been paid, and concluded that Mrs Odubela had paid £ 4500 to Anzan.

54. There was some confusion about where the money paid by Mrs Odubela had been kept. Mr Ali Rahmanyfar told the Commissioner that Mrs Odubela's money was transferred into the client account which was a business account. That answer did not reflect an understanding of the need to keep monies separate from the general business account. Mr Ali Rahmanyfar said that he had provided accounts to Mrs Odubela, however, there was no client account statements to confirm where the monies were kept or copies of such documents sent to Mrs Odubela. The Code requires the money paid to be kept into a client account until an invoice had been rendered. **Code 67. An organisation which takes monies and/or fees must provide written receipts for the money taken and keep accurate accounts, including a written record of every transaction undertaken for each of its clients. This was not done.**

55. Mrs Odubela told the Commissioner that she first discussed her immigration issues prior to September 2021 with Mr Ali Rahmanyfar online and via WhatsApp. Those messages had not been provided. She said that Mr Ali Rahmanyfar had mentioned the possibility of an asylum claim and that his father Mr Hajibaba Rahmanyfar could assist her. She said that she had attended the offices of Anzan Immigration Lawyers in October or November 2021 where she met Mr Hajibaba Rahmanyfar.
56. Mr Ali Rahmanyfar told the Commissioner that he received a call from Mrs Odubela in November 2021 where she requested an in-depth immigration consultation and assistance with her case statement for her asylum claim. He equally provided no proof of the date of this call from call logs. He had told Mrs Odubela that Anzan Immigration Lawyers did not undertake legal aid work and that she would need to instruct a level 3 OISC adviser or legal aid solicitor who could assist her with her asylum case free of charge. He said this advice was repeated in the client care letter. There was no reference to that advice in the client care letter or that she may be eligible to receive the services provided by him free of charge elsewhere. He said that she had understood the advice but had agreed to pay Anzan for their services. That was not credible. Mr Ali Rahmanyfar stated that he advised Mrs Odubela in their initial telephone consultation that it would take approximately 8 weeks to conclude her immigration matter and that the fee agreed on was £5,000.00 for her asylum case.
57. The Tribunal was satisfied that Mrs Odubela instructed Mr Ali Rahmanyfar before he was registered (most probably whilst his registration application was pending) and the payment on 3<sup>rd</sup> November 2021 confirmed this. The Tribunal finds that Mr Ali Rahmanyfar accepted her instructions in the anticipation that he would soon be registered. The initial conversations about a prospective claim started by Zoom and WhatsApp but the actual consultations took place in the office.

58. There was no comprehensive client care letter. There was a letter dated 20<sup>th</sup> December 2021 to Mrs Odubela but there was no breakdown of the fees chargeable and what they were for, there was no information to the effect that she may be able to get the same advice free of charge elsewhere, no confirmation of the limits of Mr Ali Rahmanyfar's role, no indication of how she could raise a complaint about services or fees, and critically no return acknowledgement for Mrs Odubela to confirm receipt of the client care letter and a positive instruction to proceed. **Codes 24 to 26 as cited were also breached in the absence of any documentary evidence to the contrary.**

**Code 24. The adviser must take reasonable steps to ensure that the prospective client understands the contents of their client care letter before being asked to agree it. The organisation should not do any further work until the client care letter has been agreed, other than in exceptional circumstances.**

**Code 25. An organisation must keep a record of the client's agreement to their client care letter either by way of a signed and dated copy of the letter or evidence of their agreement electronically.**

**Code 26. A client care letter must contain:**

**e. confirmation that if client money is held by the organisation on behalf of the client, such money remains the clients until the client is invoiced and payment is due,**

**f. information explaining what, if any, additional costs may be incurred for which the client may become liable.**

59. In the client care letter dated 20<sup>th</sup> December 2021, Mr Ali Rahmanyfar refers to Mrs Odubela's visit to Anzan Immigration Lawyers in the previous week, however in subsequent responses submitted to the Commissioner Mr Ali Rahmanyfar refers to the first face-to-face meeting as taking place on 29<sup>th</sup> November 2021. There were no attendance notes to confirm the dates and time of attendances on her. In fact, all record keeping was extremely poor. **This was a**

**breach of Codes 53-55 which required accurate records of all contacts and meetings.**

**Code 53. In respect of each client or prospective client, advisers must maintain an adequate record of all interactions.**

**Code 54. Records of actions undertaken on behalf of a client must clearly indicate the name of the adviser who has given the advice or done work on the client's behalf.**

**Code 55. An organisation must have and operate an effective file management system which enables it to keep clear, orderly, and accurate records of all contacts and dealings with clients and others relevant to its clients' cases. These records must be held securely, and records relating to a particular client or former client must be accessible to the client and to the Commissioner.**

60. Mr Ali Rahmanyfar told the Commissioner that due to COVID-19 restrictions immigration consultations with Mrs Odubela were mostly conducted by telephone however Mrs Odubela attended the offices of Anzan Immigration Lawyers on the following days and times:

Face to face consultation:

29/11/2021 Monday at 12:00 PM - 2 hours

23/02/2022 Thursday at 4:00 PM - 3 hours

8/04/2022 Friday at 1:00 PM - 1 hour

Telephone Consultations during office hours/ working hours:

08/12/2021: 4:00pm to 6:00pm - 2 hours

11/01/2022: 1:00pm to 2:00pm - 1 hour

13/01/2022: 3:00pm to 4:00pm - 1 hour

Out of hours telephone consultations:

08/12/2021: 9:02pm to 10:03pm – 61 minutes

29/12/2021: 7:15pm to 8:34pm – 79 minutes

4/01/2022: 8:13pm to 9:22pm – 69 minutes

10/02/2022: 9:07pm to 10:18pm – 71 minutes

15/02/2022: 10:11pm to 11:17pm – 68 minutes

61. Mr Ali Rahmanyfar stated that communication with Mrs Odubela was mainly by telephone as this was her preferred method of communication and so this was the method he used to update Mrs Odubela and discuss her case with her. Mr Ali Rahmanyfar stated that he made the following telephone calls on behalf of Mrs Odubela:

- 03/12/2021 - Two calls to the Home Office to book an asylum appointment incurring a wait of 45 minutes on each call before being connected.
- Unspecified dates - Four calls to section 95 (NASS)
- Unspecified dates - Unspecified number of calls to the Refugee and Migrant Centre to request that they assist Mrs Odubela with her asylum support application.

62. Mr Ali Rahmanyfar stated that the 36 pages of undated handwritten notes in Mrs Odubela's client file were compiled by him during telephone conversations and face-to-face meetings with Mrs Odubela in order to "develop" her asylum case. The Commissioner confirmed that he had sent to them copies of Mr Odubela's passports and those of her family. Those notes were a manuscript statement, research notes, notes from a call to the Asylum Intake Unit and some questions that might be asked in the substantive asylum interview. There were no attendance notes or indications of what was discussed in other consultations.

63. Mr Ali Rahmanyfar said that he had called the Asylum Intake Unit on behalf of Mrs Odubela before referring her case to Harbans Singh & Co. The screening interview took place in February 2022 and whilst we accepted that Mr Ali

Rahmanyfar made the initial call to the Asylum Intake Unit, it was then unclear why he would need to have four hours of consultations with Mrs Odubela after the screening interview as well as a further two hours out-of-hours. Again, the lack of attendance notes was indicative of no work being done.

64. The Tribunal was satisfied that initial consultation(s) had taken place in person at his offices. The notes confirmed this albeit the time taken and dates were less than clear. At some point, Mr Ali Rahmanyfar had prepared a manuscript witness statement but this had not been provided to Mrs Odubela. He appeared to have also undertaken some other preparation work on her case (country research and potential interview questions).
65. Mr Ali Rahmanyfar stated that he conducted 6 hours of face-to-face consultations and 9 hours and 46 minutes of telephone consultations with Mrs Odubela. The evidence of those attendances was very scarce and the client file had been produced. There appeared to be a note of an (undated) consultation with Mrs Odubela in the bundle that was six pages long. This note contained the core details of her claim. A letter (which appeared to be an inadequate client care letter) dated 20<sup>th</sup> December 2021 seemed to repeat those details leading to an inference that the initial attendance was prior to then. The extent of the instructions was consistent with a 2-3 hour attendance. It was unclear who was in attendance on any given date and for how long thereby **engaging Code 7. Advisers must clearly identify themselves when giving immigration advice or immigration services.** The Tribunal was satisfied that Mr Hajibaba Rahmanyfar was present on at least one occasion and gave the perception to Mrs Odubela of giving advice to her.
66. There was a manuscript 8 page draft statement but this had not been typed up, there was no evidence it had been sent to Mrs Obubela and no indication of when it had been prepared. There also appeared to be six pages of (undated) research into country information about Nigeria. These documents were being used to



prepare the initial witness statement which is the core of her asylum claim. We were satisfied that this work was within the remit of a level 2 adviser and not level 1 work in any event.

67. The Tribunal was unclear why Mrs Odubela's case needed to be "developed" ahead of her formal application for asylum. Whether prior to screening or shortly thereafter, she would be advised to have an initial statement prepared, although this is not mandatory. There was little to evidence 10 hours of attendance on Mrs Odubela. The Appellant must not charge a fee for work that is unnecessary or unauthorised by the client. There appears to have been an initial consultation of a couple of hours and then some preparation work (undated) but little else. No typed statement was ever produced. The work claimed was excessive. The costs charged appeared to bear little resemblance to the work undertaken. **Code 61 is engaged in that an organisation that charges for its immigration advice or immigration services must only charge a reasonable fee that directly relates to the work done.**
68. As noted above, there appeared to be a 14 page document which looked curiously like an attempt to draw up a list of proposed questions to be asked in an asylum interview by the Home Office. Whether this was to prepare her for the interview or not, Mr Ali Rahmanyfar, this was also beyond the confines of level 1 work and seemed to be coaching rather than assistance with her claim.
69. Mr Ali Rahmanyfar himself acknowledged that he had done a number of hours work on her asylum claim and claimed that he prepared the case statement. That statement was not exhibited, just a manuscript draft. The taking of detailed instructions and preparation for a witness statement is within level 2 work and outside the authorisation of Mr Ali Rahmanyfar and Anzan Immigration Lawyers. Mr Ali Rahmanyfar also referred to the giving of advice on her asylum claim frequently during his oral evidence, an activity he was not authorised to do.

To that end, **there is a clear breach of Code 3**. Organisations and advisers must only act according to, and within, their authorisation.

70. Mrs Odubela stated that Anzan Immigration Lawyers did not communicate clearly with her and failed to keep her updated upon the progress of her case. Mrs Odubela stated that she was not asked to sign a contract or anything else to show that she consented to or agreed to Anzan's terms and conditions and that these were not fully explained to her. Mr Ali Rahmanyfar was unable to provide a retainer or a signed record of the retainer. Equally, apart from the client care letter which Ms Odubela denied receiving, there were no other letters sent to Mrs Odubela about her case or the progress therein. Equally, Mr Ali Rahmanyfar had not submitted that he had sent written updates to Mrs Odubela. Organisations and advisers must ensure that each of their clients is kept regularly informed in writing of the progress of their case and, at a minimum, receives an update every three months. There were no letters with updates as to progress provided which was a **breach of Code 29**.

71. Mr Ali Rahmanyfar confirmed that his father was present at the office when Mrs Odubela came in for consultations. Mrs Odubela had said that Mr Ali Rahmanyfar had described his father as a 'top immigration lawyer'. We are satisfied on balance that this was said. Mrs Odubela would have little information about Mr Hajibaba Rahmanyfar, whether he was an immigration adviser and whether he was (or not) permitted to provide immigration services/advice. We were satisfied that she was advised by both Mr Hajibaba Rahmanyfar and Mr Ali Rahmanyfar, or at the least given the perception of that, both from the information given to her by Mr Ali Rahmanyfar about his father and his presence during consultations. Even if Mr Hajibaba Rahmanyfar was simply sitting in on the consultations and agreeing with his son, there would be a reasonable perception by Mrs Odubela that he was also giving affirmative advice.

72. Mr Hajibaba Rahmanyfar had been previously convicted of provided unregulated advice; he was not allowed to provide immigration services and advice. His presence at the office when clients arrived and his sitting in on consultations could clearly raise the perception that he too was providing advice and Mr Ali Rahmanyfar should not have allowed this to occur. The Tribunal also noted the Commissioner's observation that Mr Ali Rahmanyfar used plural pronouns (i.e. "us" and "we") in his correspondence which, together with the physical presence of his father in the office, his photograph on the organisation's website and his description of his father as a 'top immigration lawyer' combined to give the impression that Mr Hajibaba Rahmanyfar was also an adviser at Anzan Immigration Lawyers. **The Tribunal was satisfied that there was a breach of Code 8. Organisations must ensure that no unauthorised person(s) provide immigration advice or immigration services on their behalf.**

73. Mrs Odubela also stated that Anzan Immigration Lawyers did not inform her that she may be entitled to free representation for her asylum claim from the outset and that Anzan then transferred her asylum case to Harbans Singh & Co Solicitors without her prior consent or knowledge. Mrs Odubela stated that she has not received any copies of documents or applications from either Anzan or Harbans Singh & Co Solicitors. The Tribunal concluded that Mr Ali Rahmanyfar had not advised Mrs Odubela that he was not authorised to assist her with her asylum claim, or that she would need to speak to a solicitor or Migrant Help to be advised by someone with authorisation to help her and that this advice may be free of charge.

74. There was no doubt that in failing to signpost Mrs Odubela to an appropriate adviser at the outset or to advise her that she could start the asylum process herself, the actions of Mr Ali Rahmanyfar clearly impacted on Mrs Odubela's ability to promptly claim asylum (which may be considered as a credibility issue in her claim) and her ability to receive appropriate support. It took nine months for Mr Ali Rahmanyfar to refer her case to an appropriate qualified immigration

advisor. In that way, Mr Ali Rahmanyfar has **breached Code 4. All organisations and advisers must remain fit and competent within the Level and Categories for which they are authorised, Code 5 when giving immigration advice or immigration services, organisations and advisers must act competently and Code 12 Organisations and advisers must always act in their clients' best interests subject to Commissionery and legal requirements.** The Tribunal noted in this regard that it was not Mr Ali Rahmanyfar's job or duty to find her a level 2 advisor, he merely had to make it clear that he could not assist her, and recognising that it can be difficult for a lay person to find an advisor to assist, do this without delay.

75. Mrs Odubela indicated in her own statement the impact that this has had herself and her family. She would not have been expected to know that her asylum claim needed a specific tier of adviser and that the work she had been charged for should have been done by someone appropriately authorised and may have been done free of charge (although, as mentioned above, Mrs Odubela's entitlement to legal aid prior to being granted Asylum Support was not established in the evidence). In that way, Mr Ali Rahmanyfar exploited Mrs Odubela's lack of knowledge to charge for work which was unnecessary and beyond his authorisation. It was not possible to identify her as a vulnerable person per se, even though many asylum seekers are vulnerable because of their life experiences. There was no doubt that she had been misled about the extent to which Mr Ali Rahmanyfar could assist her claim – in reality, he could legitimately do very little. Mr Ali Rahmanyfar therefore **breached Code 11. Organisations and advisers must not mislead their clients or prospective clients.** This could also be said in terms of the required work to be done and the level of charges that she should expect to incur. Aside from the call to the Asylum Intake Unit, the work undertaken by Mr Ali Rahmanyfar was pointless and of no or very limited assistance in progressing her asylum claim.

76. Mr Ali Rahmanyfar did not address in his written evidence the allegation that a number of asylum applications have been submitted by Anzan Immigration Lawyers over a period of years, both during and outside of this period of registration with the OISC made by the Commissioner. The spreadsheet obtained from the Home Office appeared to show that Mr Ali Rahmanyfar and Anzan Immigration Lawyers had regularly gone beyond their authorisation in respect of making asylum applications on behalf of their clients.

77. Having heard the oral evidence of Mr Ali Rahmanyfar and considering that list with anxious scrutiny, the Tribunal had some concern about the accuracy of the spreadsheet of applications. Quite apart from Mr Ali Rahmanyfar's insistence that he had not submitted the majority of the applications on that list and indeed had never submitted a skilled worker/Tier 2 application, there was a lack of provenance about where that list came from and no explanation of how the data had been compiled. The Tribunal had some concern about the case type data at the very least from that list and were **unable to find on the balance of probabilities that it was reliable or that Mr Ali Rahmanyfar had been engaging in other work prior to registration, after his registration was cancelled or of undertaking other asylum work.**

78. Mr Ali Rahmanyfar did not address in his witness evidence that he had not disclosed his interest in UK Scholars Academy or his father's interest in Anzan Immigration Lawyers in his OISC application. The Commissioner also stated that it was aware that Mr Ali Rahmanyfar had not declared the complaint when applying to the SRA to be registered as a foreign lawyer. The Commissioner submitted that this impacted on the integrity and honesty of Mr Ali Rahmanyfar. He was not able to adequately refute those concerns about his honesty and integrity.

79. An aggravating feature in this appeal was that Mr Ali Rahmanyfar remained unshakeable throughout the appeal that in his view that the work he had done

for Mrs Odubela was level 1 work whereas it clearly level 2 work. He did not recognise or understand his obligations to the OISC and to the client. He sought to blame Mrs Odubela for her lack of understanding about what work he could do and relied on the fact that she had agreed to pay the fixed fee as evidence that she had agreed to the services he was offering. He had not acted in Mrs Odubela's best interests which would have been to signpost her elsewhere quickly but had continued to undertake expensive and worthless work on her claim, to her prejudice. The restrictions on Level 1 advisers carrying out any substantive asylum work are in place precisely to recognise the complexity of this work and the importance of it only being carried out by appropriately authorised advisers. Mr Ali Rahmanyfar's continued failure to understand the limitations of his authorisation gave the Tribunal grave concern about his fitness and competence to be registered to undertake immigration services and advice, and a lack of optimism that he would be able to understand and abide by the Commissioner's Code of Conduct in the future. He had not, after receiving overwhelming evidence about the fact that he had been undertaking level 2 work, expressed any regret or remorse and continued to maintain he had not acted outside his authorisation.

80. The breaches of the Code were as extensive as they were serious. The cumulative breaches led the Commissioner to the conclusion that Anzan Immigration Lawyers were fit and competent to provide immigration advice and services and therefore, cancel their registration. Having considered all the evidence, written and oral, the Tribunal agreed that neither Mr Ali Rahmanyfar or Anzan Immigration Lawyers were fit and competent to provide immigration advice and services. The Appellant had failed to show that the decision of the Commissioner was wrong or that it was disproportionate in all the circumstances. The Tribunal therefore upholds the decision of the Commissioner.

81. The Tribunal was asked by the Commissioner to direct that Mr Ali Rahmanyfar make a repayment of the sums paid by Mrs Odubela to Anzan Immigration

Lawyers. The Tribunal was referred to Rule 6 of the Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009 as authority for that power. The Tribunal did not consider that it had power to make such a direction under the Rules. What was being requested was an enforceable order, akin to a County Court judgment for repayment of the £ 4500 paid. However, there is provision in section 89(5) of the asylum and Immigration Act 1999 –

*If the person charged is found to have charged unreasonable fees for immigration advice or immigration services, the First-tier Tribunal may direct him to repay to the clients concerned such portion of those fees as it may determine.*

Subsection 7 provides for such a direction to be enforceable as if it were a County Court Order.

82. Whilst the Tribunal was of the view that some work had been undertaken on her case, that work had little value to Mrs Odubela as it would need to be re-done at a later stage and had been conducted outside the boundaries of Mr Ali Rahmanyfar's authorisation. It was unnecessary work. As such the Tribunal makes a direction that the Appellant repay the £ 4500 to Mrs Odubela within 28 days of receipt of this decision.

83. The appeal is dismissed.

District Judge Moan sitting as a Judge of the First Tier Tribunal

10<sup>th</sup> October 2024