

PRESS RELEASE - for immediate release: Monday 14 December 2020

Home Office / Private Contract Shambles

IN A JUDGEMENT HANDED DOWN IN THE HIGH COURT TODAY, ROBIN KNOWLES J HELD THAT THE HOME OFFICE IS IN BREACH OF ITS DUTIES UNDER ARTICLE 3 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND SECTION 4 OF THE IMMIGRATION AND ASYLUM ACT 1999 TO PROTECT DESTITUTE PEOPLE AGAINST INHUMAN AND DEGRADING TREATMENT CAUSED BY HOMELESSNESS.

WHOLESALE FAILURES TO MONITOR THE IMPLEMENTATION AND OPERATION OF CONTRACTS AWARDED TO PRIVATE COMPANIES ARE FOUND TO HAVE LED TO LENGTHY AND UNLAWFUL DELAYS IN THE PROVISION OF ACCOMMODATION AND SUPPORT TO DESTITUTE PEOPLE.

The Five Claimants DMA, AHK, BK, ELN and AA were each accepted by the Home Office to be entitled to accommodation and financial support because they otherwise faced destitution and inhuman or degrading treatment that would breach their human rights. Yet each Claimant was left homeless for prolonged periods and had to turn to the help of charities, the church, or well-wishers for modest offers of food and somewhere to sleep (sometimes in hallways) (§36). Each of the Claimants were vulnerable suffering from various mental and physical conditions (§37).

Parliament has passed a law (section 4 of the Immigration and Asylum Act 1999) stating that accommodation and financial support must be provided to people who are imminently destitute or imminently facing a risk of inhuman or degrading treatment contrary to article 3 ECHR, and the Home Office has chosen to fulfil its duties to provide this support by entering into contracts with private companies. Despite the importance and value of these contracts (worth £4bn over 10 years) the Home Office has systemically failed to monitor the implementation and operation of the contracts. The judge explained (§229) that “monitoring” here included identifying the characteristics of each individual involved; following the progress of the case; being alert to risks of inhuman treatment from a failure to accommodate; regularly reviewed their situation and recorded; reviewed and learned lessons when things went wrong. The judge rejected the claims by the Home Office that the Claimants’ destitution had been caused by their own “failure to travel” to accommodation which the Home Office claimed had been offered to them. The judge also found the Home Office ignored the evidence from the service users and NGOs that the contracts are failing and allowed a situation to develop where some of the most vulnerable in our society are left destitute (i.e. without accommodation or unable to meet their essential living needs) for prolonged periods of time.

The lengthy judgement handed down this morning is highly critical of the government’s ongoing failure to monitor, and their lack of engagement with this failure: “It is not possible to reconcile the state of knowledge of the Secretary of State and her officials with the monitoring that is said to be present and is described above. There cannot have been proper monitoring.” (para 65 of the judgement) and again at paragraph 200 the judge finds “The claimants’ cases, and the figures provided to the court, show that the monitoring arrangements either did not happen or do not work”.

The judgement stresses that particularly where the failure of a private contractual arrangement can lead to a breach of Article 3, the government’s failure to know how the contract is being performed is unlawful.

There were four Claimants in this case, and one of them, known as ELN states “*I was left hanging on, waiting to be picked up by the contractors to be taken to accommodation, and each time there was a different reason as to why the pickup did not happen. Eventually I had to wait and not move from the*

pickup point, and yet I was still not picked up. The Home Office failed to listen to what I was saying, choosing to blame me for contractors failings. The judge has made clear that this is wrong. The Home Office should have listened to me."

Case name and reference : R (on the application of DMA, AHK, BK and ELN)v THE SECRETARY OF STATE FOR THE HOME DEPARTMENT CO 4126/2019

Our clients have anonymity orders in place and are referred to in the proceedings as DMA, AHK, BK and ELN No reporting of this case should directly or indirectly lead to their identification.

Solicitors representing DMA, AHK, BK and ELN : Deighton Pierce Glynn - Polly Glynn

Barristers: Alex Goodman of Landmark Chambers and Katherine Barnes of 39 Essex Street Chambers

For further information

ELN is happy to speak to journalists and can be contacted through Polly Glynn pglynn@dpglaw.co.uk