

PRESS RELEASE - for immediate release: Monday 14 December 2020

Home Office provision of asylum support accommodation for disabled people found unlawful and discriminatory

IN A JUDGMENT HANDED DOWN TODAY, THE HOME OFFICE'S FAILURES TO MONITOR THE NUMBER OF DISABLED PEOPLE IT ACCOMMODATES ARE FOUND TO HAVE LED TO LENGTHY AND UNLAWFUL SYSTEMIC DELAYS.

Under section 4(2) of the Immigration and Asylum Act 1999, the Secretary of State for the Home Department has a power and a duty to provide adequate accommodation to eligible destitute migrants. The lengthy judgement handed down this morning by Mr Justice Robin Knowles CBE (*R(AA) v SSHD* [2020] EWHC 3416 (Admin)), is highly critical of the government's ongoing failure to monitor the number of disabled people it accommodates, and their lack of engagement with this failure. The Court held that the Home Office's failure to monitor how many disabled people it accommodates was in breach of the Equality Act 2010. This has led to disabled people being left in unsuitable accommodation for prolonged periods.

The Claimant in this case, AA, is severely disabled and cannot use stairs or walk for more than short distances before becoming breathless. The Home Office assessed that he required level access accommodation and accepted that this should be close to his dialysis clinic. However, it took nine months and three applications to the Court before this was eventually provided. He challenged the Home Office's failure to have a lawful system in place to ensure that disabled asylum seekers are relocated to suitable accommodation within a reasonable time. The Court held that the Home Office's failure to monitor the provision of accommodation to disabled migrants is in breach of the Public Sector Equality Duty (s149 of the Equality Act 2010), by failing to have due regard to the need to eliminate discrimination and to the need to advance equality of opportunity between disabled people and non-disabled people in receipt of asylum support.

Further, the Home Office had discriminated unlawfully against AA by subjecting him to unfavourable treatment because of something arising from his disability, namely, his particular accommodation needs. The Home Office had also breached the duty to make reasonable adjustments for disabled people by failing to implement an effective system of prioritisation and by failing to monitor disabled people who it owed a duty to accommodate under section 4(2).

The Judge agreed that the evidence of the Home Office's system for enforcing performance standards against its private sector contractors was "chaotic" (para 160) and that it was "impossible" to accept that the type of accommodation AA required was not available in London (para 159). The Judge rejected the submission by the Secretary of State that disability discrimination was justified on the grounds of immigration control (paras 260-261).

Further, the Judge highlights that the Home Office economic incentives within the contract it has with its private accommodation contractors risks there being a negative impact on disabled people as their accommodation needs are less profitable (or even unprofitable) (para

277). The Home Office's current system for ensuring disabled people are sufficiently prioritised to be relocated to suitable accommodation "if used, is not working", and the failure to monitor this means the Home Office cannot understand why and what needs to be done to rectify this (para 282). Finally, the Judge called for a more constructive approach from the Secretary of State to ensure that the asylum support system wins confidence and respect (para 317).

In AA, evidence was obtained on the scale and effect of the delays in providing disabled people with suitable accommodation from Kama Petruczenko at the Refugee Council, Salma Iqbal at Freedom from Torture, Zoe Dexter at the Helen Bamber Foundation and Deborah Gubbay at Bristol Refugee Rights. Refugee Action also provided helpful information. This evidence was invaluable and we are extremely grateful to have collaborated with these organisations on this claim.

AA has said: "The UK is supposed to be a safe and democratic country that provides human rights and help to those who need it, why did they make me suffer for this long?"

AA's solicitor, Sasha Rozansky, stated: "There has been a widespread problem with the Home Office failing to move disabled people to accommodation suitable for the disability, even when the Home Office has assessed that they are living in unsuitable accommodation. It cannot be right that people are only able to obtain accommodation which meets their needs as a disabled person by instructing solicitors and making multiple applications to the Court."

Our client has anonymity orders in place and are referred to in the proceedings as 'AA'. No reporting of this case should directly or indirectly lead to his identification.

Solicitors representing AA: [Sasha Rozansky](#), [Robyn Taylor](#) and [Georgina Colegate-Stone](#)
Barristers representing AA: [Zoe Leventhal](#) at Matrix Chambers and [Ben Amunwa](#) at the 36 Group

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A copy of the Judgment will be uploaded to <https://www.bailii.org/> shortly, but is attached for ease of reference.