

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
ADMINISTRATIVE COURT**



**CO/308/2023**

**BETWEEN:**

**THE KING on the application of**

**HAA**

**Claimant**

**AND**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Defendant**

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**ORDER**

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**UPON** the Defendant granting the Claimant recourse to public funds on 31 January 2023;

**AND UPON** the Defendant confirming that, in accordance with her Policy Equality Statement dated 29 April 2022, where an application has been made for non-imposition, or lifting, of the no recourse to public funds ('NRPF') condition, the Defendant retains a discretion not to impose or to lift the NRPF condition on the grounds that although the applicant is not destitute (or imminently destitute), the effect of their disability may create exceptional circumstances that require them to be permitted to have recourse to public funds. Accordingly, any representations to this effect made by applicants regarding disability will be given careful consideration by the Defendant's caseworkers;

**AND UPON** the parties having agreed terms

**IT IS HEREBY ORDERED BY CONSENT THAT:**

1. The Defendant's decision dated 26 October 2022 to impose the NRPF condition on the Claimant's limited leave to remain be quashed.
2. It is declared that paragraph GEN 1.11A of Appendix FM of the Immigration Rules and the accompanying Policy Guidance are unlawful for their failure to instruct caseworkers adequately in relation to exceptional circumstances and/or disability as grounds for potentially requiring recourse to public funds to be granted to applicants who may not

be destitute or imminently destitute, so as to ensure that the Defendant properly exercises her statutory discretion under section 3 of the Immigration Act 1971 and acts compatibly with her obligations under sections 6, 29, 149 and Schedules 1 and 2 of the Equality Act 2010.

3. This claim be withdrawn.
4. The hearing listed for 21 and 22 February 2023 be vacated.
5. The Defendant do pay the Claimant's reasonable costs, to be assessed if not agreed.
6. There be detailed assessment of the Claimant's legal aid costs.

Dated this 8th day of February 2023

We consent to an order being made in the above terms

*DPG*  
.....  
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Ref: AH/5458/002

Solicitors for the Claimant

Approved by Mrs Justice Collins,

*Treasury Solicitor*  
.....  
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IMM4

Solicitors for the Defendant

BY THE COURT