



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

CO/1804/2022

MR JUSTICE FORDHAM

BETWEEN:

R (on the application of CB)

Claimant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

DECLARATIONS OF THE COURT

UPON HEARING **Jamie Burton KC** with **Michael Spencer** for the **Claimant** and **Colin Thomann** for the **Defendant** at the substantive hearing of this case on 15 December 2022.

AND UPON considering emails from Counsel on 16 December 2022.

AND UPON the parties' Agreed List of Issues being: (1) Did the SSHD err in law for the reasons set out in the Claimant's grounds of challenge in setting the rate of weekly cash payment in respect of the essential living needs of persons to whom she has decided to provide asylum support, by regulation 2 of the Asylum Support (Amendment) Regulations 2022 (SI 2022 No. 78) with effect from 21 February 2022? (2) Did the SSHD in any event err in law in failing to reconsider and/or review the rate of asylum support after 21 February 2022 and is she currently in breach of her obligations under s.95 of the Immigration and Asylum Act 1999?

AND UPON the Defendant having disclosed in these proceedings, inter alia, an Advice to Ministers dated 31st August 2022, and the Court being satisfied that the appropriate date for the purposes of Declaration (1) below is 2 weeks (14 September 2022) from the date of that Advice.

AND UPON the Defendant by her Counsel not being able to resist the making of the Declarations below, but nor consenting to them.

AND UPON the Court announcing at the end of the hearing on 15 December 2022 that it would make certain declarations by way of Court Order today, relating to Issue (2), with reasons to be given in a Judgment of the Court (on all Issues) to follow, with any further appropriate Order, including any Mandatory Order if made, to follow at or after the hand-down of the Judgment.

IT IS ORDERED as follows:

1. It is declared that:

(1) The Secretary of State for the Home Department has since at least 14



September 2022 acted unlawfully in failing (i) to review the rate of asylum support under section 95 of the Immigration and Asylum Act 1999 and (ii) to ensure that the rate of asylum support under section 95 of the Immigration and Asylum Act 1999 is adequate to meet the essential living needs of asylum seekers.

- (2) Unless and until the Secretary of State for the Home Department increases the rate of asylum support by policy and/or by amendment to regulation 10(2) of the Asylum Support Regulations 2000, the Secretary of State for the Home Department will be acting unlawfully and in breach of her statutory duty to ensure that the rate of asylum support is necessary to meet the essential living needs of asylum seekers.

2. Costs reserved.

A handwritten signature in black ink, appearing to read 'Michael Fordham'.

Fordham J

DATED 16.12.22

BY ORDER OF THE COURT

NOTE: This Order takes effect from the date on which it was made. A sealed copy is and will be available from the Administrative Court Office.