

High Court declares that the Home Secretary is acting unlawfully by failing to meet asylum seekers' essential living needs and protect them from destitution in the cost of living crisis

The High Court has today ruled that the Home Secretary, Suella Braverman, has acted and is continuing to act unlawfully by failing in her legal duty to provide for the essential living needs of asylum seekers. This follows evidence that she ignored advice from her officials, first issued on 31 August 2022 and repeated in September and November 2022, that she must increase the rate of weekly financial support paid to asylum seekers in order to avoid breaking the law.

Under Act of Parliament, the Home Secretary is under a legal duty to review the rate of support for asylum seekers in order to ensure that it is sufficient to meet their basic subsistence needs such as food, drink, clothing, toiletries, travel and non-prescription medication.

Internal Home Office advice to the Minister, disclosed during the proceedings, revealed that the current rate of £40.85 per week is no longer sufficient to meet basic living needs. Officials recommended repeatedly that in light of rising inflation the rate must be increased in order to protect asylum seekers from destitution. On 15 November 2022 stated categorically that the rate had to be increased immediately to £45 per week. The Home Secretary again did not act on this advice. She provided no reasons or explanation to the Court for this failure, despite the court hearing having been listed for many months.

The legal ruling confirms that the Home Secretary is in breach of the law and is legally required to immediately increase the rate of weekly support. A further judgment on whether the Secretary of State acted unlawfully by using a less accurate methodology for calculating the cost of meeting the essential living needs of asylum seekers is likely to be handed down in the next few weeks. In the event that the Home Secretary refuses to act in light of today's ruling the Court is likely to have no choice but to order her to do so.

The case was brought by an asylum seeker, CB, whose name has been anonymized to protect her identity. In her evidence to the court, she explained the reality of everyday life:

"It feels like it's getting harder and harder just to survive day to day. I'm going without the clothes, toiletries, and food that I need, to try to give as much as I can to the children. When I speak to my friends at the church, they tell me that they are facing the same problems. We are all just so worried about what we hear on the news and costs rising even more. When we share our problems with each other, we understand how when a friend says that her child lost his PE kit, spilt the pint of milk, or dropped a toilet roll in the toilet, these are not everyday accidents for us. Things like this have real consequences when you're trying to survive on such a little amount."

CB's solicitor, Josie Hicklin, said

"Whilst we welcome the finding of the Court, this is not a day for celebration. The Home Secretary was warned by her own officials that over 50,000 people were receiving less than required to meet their most basic needs and she chose to do

nothing. The court has merely confirmed what she already knew – her failure to act was unlawful.

Without the bravery of our client, the Home Secretary's failing would have gone unchallenged. But until the Home Secretary agrees to act her situation remains unchanged. She is caring for young children, on a level of support far too low to meet their most basic of needs. There are thousands of others in the same situation, all in need of urgent help. The Home Secretary has the power to increase the level of support today. We urge her to do so."

INFORMATION

Under s95 of the Immigration and Asylum Act 1999, the Home Secretary has a duty to ensure that asylum seekers can maintain a dignified standard of living for an adequate standard of health and to meet their subsistence needs. This duty involves setting the rate of support at a rate that is adequate to meet essential living needs and keeping the rate of support under review. CB challenged the decision of the Secretary of State to set this year's rate of support at £40.85 per person per week (an increase of only £1.22 on the week before) and, in the context of costs of living, to fail to review the adequacy of the support provided..

The Claim was issued at the Administrative Court in Manchester in May 2022. Permission to proceed with the claim was granted by Mr Justice Fordham on 26 July 2022. The Secretary of State defended the claim and continued to maintain that she had acted lawfully. The substantive hearing was heard at the Administrative Court in Manchester on 15 December 2022 before Mr Justice Fordham. The legal representatives for the Home Secretary were unable to resist the making of the orders on 15 December. The Judge will provide his reasons on due course.

A COPY OF THE JUDGE'S ORDER IS ATTACHED TO THIS PRESS RELEASE

CB was represented by Jamie Burton KC and Michael Spencer at Doughty Street Chambers instructed by Greater Manchester Law Centre.

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