

**IN THE HIGH COURT OF JUSTICE**

**CO/309/2021**

**QUEEN'S BENCH DIVISION**

**DIVISIONAL COURT**

**BEFORE THE RIGHT HONOURABLE LORD JUSTICE LEWIS and**

**THE HONOURABLE MR JUSTICE GARNHAM**



**BETWEEN:**

**THE QUEEN on the application of KMI**

*Claimant*

-and-

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

*Defendant*

---

**ORDER**

---

**UPON CONSIDERATION** of the papers and hearing Mr Simon Cox of counsel for the Claimant and Mr Alan Payne QC of counsel for the Defendant, remotely via Microsoft Teams.

**IT IS ORDERED THAT:**

1. The Defendant shall file and serve her acknowledgement of service and summary grounds of resistance by 4 pm on Wednesday 17 February 2021.
2. The papers in this case are to be put before Garnham J as soon as reasonably possible after 17 February 2021.
3. The Administrative Court Office is requested to put the papers in the case of *R (EW) v Secretary of State for the Home Department* (CO/4866/2020) before Garnham J together with the papers in this case.

4. The application for interim relief as set out in the Claimant's draft order dated 11 February 2021 is refused. For the avoidance of doubt the application refused was for an order that:

"Until further order the Defendant shall offer accommodation under section 4 of the Immigration and Asylum Act 1999 to any person who applies for such accommodation whom she considers to be a destitute failed asylum-seeker."

and for an order that:

"Until further order the Defendant shall offer accommodation under section 4 of the Immigration and Asylum Act 1999 to persons with a pending appeal to the Asylum Support Tribunal from a decision of hers to refuse such accommodation, in which she does not dispute that the person is a destitute failed asylum-seeker."

5. It is DIRECTED that:

- a. The High Court will, until further order, be prepared to consider urgent applications, before the issuing of a claim for judicial review, for interim relief in the following category of individual cases:

Any appellant to the First-Tier Tribunal (Social Entitlement Chamber) ("FTT") who has given notice of appeal, in accordance with rule 23 of the Tribunal Procedure (First-Tier Tribunal) (Social Entitlement Chamber) Rules 2008, against a decision of the Defendant refusing support under section 4 of the Immigration and Asylum Act 1999 ("section 4 support") whom the Defendant accepts is destitute.

- b. That application may (but need not) be limited to 2 pages in length.
- c. Any such application must identify:
- i. the name of the applicant, and
  - ii. whether the Defendant has accepted that s/he is destitute, and
  - iii. the date on which the Defendant decided to refuse section 4 support, and
  - iv. the date on which the applicant appealed to the FTT.

- d. A copy of the decision refusing section 4 support and, if possible, a copy of the notice of appeal to FTT, should be attached to the application for interim relief.
- e. All such applications should be filed in the Administrative Court Office (by post or by email), and copied to the clerk to Garnham J and the Defendant at the following addresses:
- i. Administrative Court Office
- Address: Administrative Court Office, The Royal Courts of Justice, Strand, London, WC2A 2LL
  - or by email to:  
[generaloffice@administrativecourtoffice.justice.gov.uk](mailto:generaloffice@administrativecourtoffice.justice.gov.uk)
- ii. Clerk to Garnham J
- Address: The Clerk to the Hon. Mr Justice Garnham, The Royal Courts of Justice, Strand, London, WC2A 2LL
  - or by email to: [Linda.OREgan@justice.gov.uk](mailto:Linda.OREgan@justice.gov.uk)
- iii. Defendant's solicitor:
- Address: Government Legal Department, 102 Petty France, Westminster, London, SW1H 9HL
  - Or by email to ALL of the following email addresses:  
Catherine Quinn - [Catherine.Quinn@governmentlegal.gov.uk](mailto:Catherine.Quinn@governmentlegal.gov.uk)  
Mbeko Sihwa - [Mbeko.Sihwa@governmentlegal.gov.uk](mailto:Mbeko.Sihwa@governmentlegal.gov.uk)  
Kathryn Tiley - [Kathryn.Tiley@governmentlegal.gov.uk](mailto:Kathryn.Tiley@governmentlegal.gov.uk)
- f. The Defendant is to have 24 hours from receipt of that application to file a response and serve it on the Applicant (if the application has been filed by post, and the Applicant has not provided an email address then, as regards service on the Applicant, the Defendant is instead required to take the step specified in CPR r.6.26 within 24 hours of receipt).
- g. A decision on the application will then be made by Garnham J, or another judge of the Queen's Bench Division if Garnham J is not available.

6. Liberty to apply to Garnham J, or another judge if Garnham J is not available, to apply to vary paragraph 5.
7. No order as to costs, save that there shall be detailed assessment of the Claimant's legal aid costs.
8. The remainder of the hearing is adjourned to the date on which written reasons for today's decision are circulated.

Dated 11<sup>th</sup> February 2021

*By The Court*

