

Home Office breaking law by leaving destitute asylum seekers homeless

Exclusive: Courts repeatedly ordering government to provide vulnerable people their rightful support

Asylum seekers are becoming homeless because the Home Office is unlawfully failing to provide them with accommodation.

Under asylum law, the Home Office is required to grant housing and support to asylum seekers who are waiting on their claims, or whose claims have been refused but who aren't able to leave the UK.

The Independent has seen court orders from recent weeks in which the government has been told it must house destitute individuals whom it has a legal duty to support. In some cases it has been ordered to reimburse charities for costs they have incurred to accommodate these people while it has failed to do so.

Court documents show that the department has been granting people asylum support on paper, but failing to provide it until solicitors intervene. In some cases, asylum seekers – some of whom are also victims of modern slavery or torture – have had to wait months to be housed.

In all cases The Independent has been made aware of, the individuals have been accommodated by friends or charities and the legal action has been taken just before this informal support has had to end, meaning they did not have to sleep on the streets.

However, lawyers and charities said there were many destitute asylum seekers who would not have access to legal representation to enable them to resolve their cases in court, and may have fallen into street homelessness as a result.

Campaigners said that while there were already delays in providing housing, the pandemic had exacerbated the situation, as many asylum seekers who had been sofa surfing were forced out of these arrangements due to the lockdown, and subsequently applied for government support.

In one case, a Chinese man recognised by the Home Office as a potential victim of trafficking was granted support on 19 March, yet no action was taken to provide him with housing or financial support for four months.

The individual was staying with a friend during this period, but this informal arrangement had to come to an end on 18 July as the friend could no longer afford to house him. He wrote to the Home Office on both 7 April and 10 July, but received no reply.

His solicitors took the case to court on 18 July and the judge ordered the Home Office to provide accommodation at 4pm the same day, saying the home secretary was in "clear breach of her own decision on 19 March".

In another case, a Vietnamese woman believed to be a victim of forced prostitution was granted Home Office support on 26 June and informed that she would be picked up from a charity's office on 7 July and taken to the accommodation.

However, no one from the Home Office arrived, meaning she faced imminent street homelessness and destitution. The charity subsequently paid for a hotel for her to stay in that night.

The woman's solicitors wrote to the department on several occasions the following day. They received a response that evening stating that it was "not possible to respond substantively within the timescales proposed" and that a new response would be provided the following day, meaning the charity had to pay for another night in the hotel.

On 10 July, the Home Office housed the woman, and the court ordered that it must reimburse the charity for the costs of the hotel. The judge concluded: "Here is a strong prima facie case that the secretary of state owes the claimants a duty to provide her with accommodation and is breaching that duty."

Ahmed Aydeed, director of public law at Duncan Lewis Solicitors, said his team was seeing at least three such cases each week, and that each time they took them to court the Home Office was ordered to provide support.

He added: "The home secretary, in all these cases, accepts clients are destitute and need urgent support, yet does nothing for months. Charities are having to fill the gap, and we're receiving urgent referrals where that is simply no longer possible.

"Our clients were lucky that they received this additional support from these wonderful charities, but I'm extremely concerned for those who do not receive this support and do not have legal representation.

"We've had cases where there hasn't been a charity to fill the gap, and we've had to issue proceedings on the weekend to ensure clients aren't left destitute. Who knows what's happening to people who do not have legal representation."

It comes as the Home Office has faced a legal challenge this week over the delays, specifically in relation to its failure to provide accommodation to people entitled to section 4 support, which should be provided to asylum seekers whose claims have been refused but who aren't able to leave the UK.

Polly Glynn, of Deighton Pierce Glynn, the law firm acting on behalf of four clients who have experienced significant delays in the provision of support, said: "It should not be the case that after the Home Office has decided you are destitute, you have to take legal action to get accommodation. That's not how it should work.

"The legal issue is that people are in very precarious situations, and there's a risk of them being street homeless and destitute. We say that this is unlawful. And of course there will be many people out there who can't take their cases to court, and will have fallen homeless as a result."

Denise McDowell, chief executive of the Greater Manchester Immigration Aid Unit, which supports asylum seekers in this situation, said the issue had become worse during the coronavirus pandemic.

"There's a hold on people in accommodation, which means there's no move-on. It's all to do with a demand on the system, and it's a system that doesn't easily adapt to new circumstances," she said.

"These are really compelling and urgent situations. We try to get a response from the Home Office, and when we can't that's when we have no other option but to go for a legal challenge.

“But we shouldn’t have to do that each time. It isn’t good enough that that’s the situation people are put in. We only know the people who we see, so if we’re having difficulty, other people will be having real problems.”

Stephen Hale, chief executive of Refugee Action, which has a number of clients who have faced delays in being provided with accommodation, all of whom have waited on average 35 days, said it was “deeply troubling” that people who the Home Office knew were destitute were being left to sleep on couches and on streets while they waited for support.

“The Covid pandemic has exposed underlying failings in the asylum support system that the government must urgently address,” he added