



Neutral Citation Number: [2020] EWHC 3283 (Admin)

Case No: CO/4082/2020

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**  
**SITTING AT LEEDS**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 30<sup>th</sup> November 2020

**Before :**

**MR JUSTICE FORDHAM**

**Between :**

**SOCIAL WORK ENGLAND**  
**- and -**  
**ALEXANDRU MICU**

**Applicant**

**Respondent**

**Sophie Sharpe** (instructed by Capsticks Solicitors LLP) for the **Applicant**  
The **Respondent** did not appear and was not represented

Hearing date: 30<sup>th</sup> November 2020

Judgment as delivered in open court at the hearing

**Approved Judgment**

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....  
THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

**MR JUSTICE FORDHAM :**

1. This is an application pursuant to paragraph 14(2) of Schedule 2 to the Social Workers Regulations 2018 (SI 2018/893) for a further 10 month extension to an interim suspension order imposed on 31 May 2019.
2. The hearing was a remote hearing by BT conference call. The case and its start time, together with an email address usable by any person who wished to observe the public hearing, were published in the cause list. A remote hearing eliminated any risk to any person from having to travel to or be present in a court room. I am satisfied that the mode of hearing involved no prejudice to the interests of any party, that it was necessary, appropriate and proportionate and that the open justice principle has been secured.
3. I am satisfied that it was appropriate to proceed in the absence of the Respondent. I have seen exchanges between the parties which make very clear that he was well aware of the hearing today and the subject matter. He has, moreover, been able to communicate so that it could be put before me his position on this application. That position comes to this. He does not resist the extension of the interim order, making clear that he does not accept any wrongdoing in this case. He does however resist the length of the extension which is being sought. He makes the point that from his perspective matters are no further forward than they were 18 months ago when all of this started. He has explained to me that the delay is prejudicial from his perspective. He does not say what period of extension he would accept. In my judgment, in all the circumstances of this case, it is appropriate that I satisfy myself as to whether any extension is appropriate at all and, if one is, what its duration should be.
4. The relevant guidance concerning my approach to my jurisdiction is contained in the case of General Medical Council v Hiew [2007] EWCA Civ 369 [2007] 1 WLR 2007 particularly at paragraphs 26 to 33. I have re-read those passages for the purposes of this hearing. Protection of the public is at the heart of the interim suspension order which has been made and continued in this case and which I am asked to extend. It is not necessary to go through the thicket of regulations which governed the position of the Health and Care Professions Council (HCPC) who imposed the interim suspension order originally (31 May 2019) and the transfer from 2 December 2019 of responsibility from the HCPC to the Applicant.
5. The test in this case is whether it is necessary for the protection of members of the public or otherwise in the public interest that the suspension order should continue. I have regard to the protection the public, the public interest and the Respondent's interests. I have considered the gravity of the allegations, the nature of the evidence, the seriousness of the risk of harm, the reasons why the case has not been concluded and the prejudice to the Respondent if the interim order is continued. I have looked at the position with care remembering, however, that I am not today making a judgment as to whether the allegations have merit. Whether they are substantiated is a question in the underlying proceedings. I am entitled to take into account a 'clear' conclusion that the underlying case 'has little merit' (Hiew paragraph 31) but that cannot be said in this case.
6. The allegations in this case, if they are true, are serious. They go back to the period up to September 2008 when the Respondent was in Romania working with pastoral and

management duties within an orphanage linked to a church. The allegations which led to Darlington Borough Council referring the Respondent to the HCPC (15 October 2018) initially involve a description of a consensual sexual relationship with an individual of full adult age in a church context, nevertheless inappropriate (it is alleged) given the Respondent's pastoral responsibilities and the vulnerable nature of the other individual. The allegations, however, then contained a further strand which related to alleged sexual conduct this time in the context of children and in the setting of the Romanian orphanage. When the interim order was continued at its fifth review (on 11 September 2020) the interim order review panel observed that: "If proven [these allegations] would amount to a fundamental breach of trust, and if repeated would place service users at serious risk of harm". The panel went on to observe that the allegations had "been made by several people" and went on to identify risk and the importance of protection of the public and public confidence. All of that, in my judgment, looking at the nature and seriousness of the allegations, remains true on the face of it today.

7. There is, however, an important updating position which has to be borne in mind in this case. It arises, moreover, in circumstances where the Disclosure and Barring Service – having themselves received a referral in this case – had formally decided (on 6 January 2020) that it was "not appropriate" to include the Respondent in the Children's Barred List and the Adults Barred List. The up-to-date position was reported to the interim order review panel at that panel's meeting last Friday, 27 November 2020. An email from the Applicant, provided to that panel and provided to the Respondent, explained that in the view of the Applicant it was appropriate for the panel to look again at the assessment of risk, in circumstances where it was now clear that it had not been possible (and, realistically, was not going to be possible) to obtain any direct evidence from any potential complainant. Given the lack of any real opportunity for the Respondent to respond to that latest updating information, that panel decided to adjourn that hearing. It did so, conscious that the interim order was due to expire today but that this application would be before this Court today. The panel explained that, were this Court to extend the interim order, then the matter should be "listed for review by way of hearing" to consider whether continuation of the interim order was, in the panel's view, necessitated on an assessment of risk in the light of the fresh circumstances. Ms Sharpe tells me that that hearing has been fixed for 9 December 2020. She has explained the role that the panel of adjudicators will have in the assessment of risk by reference (inter alia) to the case of Martinez v General Dental Council [2015] EWHC 1223 (Admin). It is obviously important that that hearing should take place and that that evaluation of risk should be undertaken by that panel of adjudicators.
8. I am going to extend the interim suspension order today but, in doing so, I make clear that I am not cutting across, or in any way giving an indication to, that panel as to how it will approach its risk assessment consideration of the necessity for the continuation of the interim order, based on the current circumstances. All that I am doing today is deciding that, based on the material before this Court, it is necessary that the interim suspension order should continue, to protect the public in the interim and to allow the underlying proceedings to continue. Whether or not the interim suspension order is continued by the panel of adjudicators following the hearing on 9 December 2020 is squarely a matter for that panel to assess on the merits as it sees them.

9. The Applicant is inviting, as I have said, a 10 month extension of the duration of the interim order but I am not prepared to make an order of that duration. Ms Sharpe tells me that, in circumstances where (as it is put in the email dated 15 November 2020) the Applicant's solicitors have now "finalised their enquiries and are in the process of drafting the Case Investigation Report" to be "considered by the Case Examiners as soon as possible", it will be necessary to give the Respondent 2 to 4 weeks to respond, if he wishes to do so, after which there is likely to be a 4-5 week period within which the case examiners will come to make their decision as to whether the case should proceed any further. Ms Sharpe tells me that it is possible to inject some "expedition" into that process. Were there no case to continue with against the Respondent then the interim suspension order would in any event then fall away, even if not discharged by the panel of adjudicators on 9 December 2020. Ms Sharpe tells me that the earliest possible hearing were the matter to proceed to a substantive hearing would be 12 April 2021.
10. Although the allegations in this case are serious and the public interest and protection of the public, in my judgment, justify as necessary the continuation of the interim order, it is nevertheless also the case that there is relevant ongoing prejudice being suffered by the Respondent. I am conscious that this matter passed to the Applicant from the HCPC only on 2 December 2019. Nevertheless, it is relevant to have in mind the lapse of time in this case since the referral on 15 October 2018 and the police interview on 7 November 2018. I do not doubt that the Applicant will seek to pursue this matter with all appropriate expedition but, in my judgment, it is equally appropriate that this Court should clearly signal the need for focus and discipline and expedition in the ongoing pursuit of the proceedings. I am not prepared to extend the interim order any longer than 6 months from today. It is of course possible that, as at that stage, matters will be have been pursued conscientiously and with appropriate expedition and yet matters may still be unresolved. However, if and insofar as that is the position, that will need to be explained and it is appropriate that this Court should continue to take appropriate supervisory steps to ensure: first, that the need for conscientious expeditious pursuit is clearly signalled; and secondly, that this case can be further looked at in 6 months time if it has not been resolved and an explanation can be given. If, at that stage, there is a proper explanation then there is every reason to suppose that the Respondent will sensibly recognise that he is in no position to resist a further extension. But I am not prepared to grant any extension beyond 6 months. I am concerned that to do so would risk giving the wrong signal.
11. I am satisfied that the six-month extension is necessary and proportionate, but that an extension today of more than 6 months would be unjustified and disproportionate. I therefore grant the application and extend the interim order for 6 months from today. I will now consider with Ms Sharpe the fine tuning and detail of today's Order. My Order (leaving aside recitals) was: (1) The interim order made by the Investigating Committee of the Health and Care Professions Council on 31 May 2019 shall be further extended until 4pm on 29 May 2021. (2) The Respondent has liberty to apply to vary or discharge the Order on giving 48 hours' notice. (3) There shall be no order as to costs.