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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
[2021] EWHC 1255 (Admin)



No. CO/966/2021

Royal Courts of Justice

Wednesday, 21 April 2021

Before:

HER HONOUR JUDGE WALDEN-SMITH
(Sitting as a Judge of the High Court)

B E T W E E N :

GENERAL DENTAL COUNCIL

Applicant

- and -

KNEE

Respondent

MR T. BUXTON (instructed by the General Dental Council) appeared on behalf of the Applicant.

THE RESPONDENT did not appear and was not represented.

J U D G M E N T

THE JUDGE:

- 1 This is an application made by the General Dental Council for an extension of an interim order first made by a panel of the General Dental Council's Investigating Committee on 19 October 2016. The interim order made on 19 October 2016 expires on 22 April 2021, that is at midnight tomorrow. Previous extensions of the original order were made on 25 March 2018, 25 March 2019, and 8 April 2020. The respondent has not attended this hearing, although she has indicated that she wants this hearing to proceed. The respondent has not been represented throughout these proceedings and has taken no active part in them other than to say, whenever contacted, that she is content for the matters to proceed.
- 2 The extension sought on this occasion is for a period of four months. I have had the benefit of reading the skeleton argument from counsel and the witness statement of Gift Akinola, a paralegal in the in-house representation service of the General Dental Council, dated 16 March 2021, and the exhibits thereto.
- 3 In summary, the General Dental Council is responsible for supervising and regulating the fitness to practise of dental practitioners in the United Kingdom. The respondent in this case is a dental nurse. A register of certified dental professionals is kept by the General Dental Council. If an allegation is made against a dental professional certified to practise, it is reviewed by the Fitness to Practise department which collects information to substantiate any allegation that has been made. Where the registrar or other officer of the General Dental Council determines that the complaint or other information amounts to an allegation, then it will be referred to case examiners who will determine if it ought to be considered by a Practice Committee.
- 4 The registrant against whom any such allegation is made has the opportunity to respond with written representation to the case examiners. As I have indicated, the respondent in this case has not taken advantage of that.
- 5 Subsequent to consideration by the case examiners, the matter can be referred to a Practice Committee or, if the determination of the case examiners is not unanimous, it will be referred to the Investigating Committee which will consider the allegation and determine whether it ought to be considered by a Practice Committee. An interim order can be made pursuant to the provisions of s.36V(4) of the Dentists Act 1984 by the Interim Orders Committee where it is satisfied that it is necessary for the protection of the public, or is otherwise in the public interest, or is in the interest of the person concerned, for the person's registration to be suspended or to be made subject to conditions.
- 6 In this matter, the General Dental Council received information from NHS England of the outcome of a disciplinary hearing addressing the allegation that the respondent had been taking cash payments from patients who were eligible for being charged, but she was then amending the records so as to make it appear that those patients were exempt and keeping the payments for herself.
- 7 The disciplinary hearing panel of the General Dental Council concluded that there was sufficient evidence to support a reasonable belief that the defendant has used her knowledge of dental systems and procedures to carry out a calculated and systematic theft of patient charges, including steps to avoid discovery. She had been dismissed for gross misconduct by the NHS disciplinary panel on 20 September 2016; the matter was referred to the Interim Orders Committee on 27 September 2016, and the interim order imposing suspension for a

period 18 months was imposed on 24 October 2016 for the purpose of protection of the public, and as being in the public interest.

- 8 That interim order has been reviewed on 7 April 2017, 22 September 2017, 8 March 2018, 24 August 2018, 6 February 2019, 19 July 2019, 10 January, and finally on 11 December 2020. The allegations, in summary, were considered to be a serious theft of monies and alteration of patient records. The interim order was considered necessary to control and manage the risk given the allegations made were of such a serious nature. The interim order itself has been extended on 25 March 2018, 25 March 2019, and 8 April 2020.
- 9 There was, on 1 July 2020, a determination of the case examiners with respect to the allegation concerning the respondent's fitness to practise. There was a conclusion that there was a real prospect of the facts being proved; the facts amounting to misconduct and fitness to practise. The determination of the case examiners on that date was that the matter be referred to a Professional Conduct Committee for consideration. The hearing of that Professional Conduct Committee is to take place between 19 - 30 July 2021, those dates being the first available given the various strictures that many courts and tribunals have gone through during these COVID times.
- 10 It is for that reason that there is this application for a further extension for four months. That will take the matter through to 21 August, which will give the Professional Conduct Committee time to hear the matter, make a determination, and also takes into account any further time should there be some delay in final determination.
- 11 In all the circumstances, therefore, I consider that the extension of four months at this time is both reasonable and proportionate. The respondent has not herself put forward any basis for suggesting that such a further extension at this time would cause her hardship. In all the circumstances therefore, I will make the order as is sought.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.