



Neutral Citation Number: [2022] EWHC 1089 (Admin)

Case No: CO/1391/2022

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

10th May 2022

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND
- and -
JOSEPH ESSIFUL

Claimant

Defendant

Adrian Harris (instructed by Capsticks Solicitors LLP) for the **Claimant**
The **Defendant** did not appear and was not represented

Hearing date: 10.5.22

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 and approved by the Judge, after using voice-recognition software during an ex tempore judgment in a remote hearing.

MR JUSTICE FORDHAM :

1. This was the remote hearing by Microsoft Teams of an application by SWE pursuant to Schedule 2 §14 of the Social Workers Regulations 2018, for a twelve-month extension to 21 May 2023 of an interim suspension order (ISO) originally imposed on 24 April 2020 for 18 months and extended by 7 months by Order of this Court on 27 September 2021, which unless extended by this Court will expire on 22 May 2022. The papers were served by email on the Defendant pursuant to permission to do so by Order of this Court (HHJ Saffman) on 25 April 2022. The Defendant had communicated to SWE in mid-March 2022 that he is currently homeless and of no fixed abode. After the email service, he has sent emails from that address to Capsticks, which I have seen. He is engaging on the question of meeting with a medical expert. He says he is now in temporary accommodation and hopes to be in a settled position with a permanent address soon. He has also engaged and participated at some stages in the underlying proceedings. I am satisfied that he has been properly notified and has decided not to respond, in writing by email or by taking steps to join this remote hearing, to make representations about this application for an extension to the ISO. Mr Harris very fairly accepts that a “liberty to apply” protection for the Defendant is appropriate, in the circumstances, for inclusion in an Order and I agree. As to open justice, this was secured through the publication of the case and its mode of hearing and start time in the Court’s cause list, together with an email address usable by any member of the press or public who wished to participate.
2. The test for an extension is necessity for the protection of the public or in the public interest, so far as is relevant to the application in the present case. That is a necessity test applicable to the extension, to the nature of the interim order being extended, and to the duration of the extension. As was explained in GMC v Hiew [2007] EWCA Civ 369 at paragraphs 28 and 31 to 33, the Court has regards to matters such as the gravity of the allegations, the seriousness of the risk of harm to the relevant public, the reasons why the case has not been concluded and the prejudice to the practitioner if the ISO is continued.
3. I am satisfied that SWE has discharged the onus of demonstrating the necessity of the twelve-month extension of the ISO. The concerns are linked to conduct which was the subject of a crown court conviction and a 30-month custodial sentence imposed on the Defendant in July 2019, for offences of fraud by way of false representations, relating to a period of more than a decade during which he had unlawfully sublet a local authority social housing tenancy. The ISO was imposed, as I have said, in April 2020. That was prior to the Defendant’s release, on home detention curfew, on 15 June 2020. The ISO has been reviewed on several occasions. The SWE proceedings against the Defendant have been properly pursued and progressed through to the service of the case on the Defendant in June 2021 and the fixing of final hearings to take place in August 2021 and again in December 2021, each of which had to be adjourned for reasons relating to the Defendant’s health. Steps have subsequently been progressed for an independent expert medical assessment to address the Defendant’s health and his fitness to participate in the proceedings. Such an assessment has also been postponed, as recently as last month, for reasons linked to the circumstances of homelessness.
4. As the most recent and eighth review of the ISO in March 2022 recognised: the convictions involved dishonesty; they are indicative of a potential to expose the public (including service users) to a risk of harm; they throw into question the extent to which

the Defendant can be trusted to practise as a social worker safely and with integrity; and there is on the face of it limited evidence of insight and addressing the nature and impact of the criminal conduct. The proceedings have been pursued and progressed, as I have explained, with good reasons for the adjournments and deferrals. Those reasons are linked to the Defendant's own circumstances and protecting his interests.

5. SWE is seeking to find ways forward, to bring the underlying proceedings to a substantive outcome. That includes engaging with the Defendant to seek to schedule the medical assessment. The Defendant has recently stated by email his availability to meet with the medical expert. But if those attempts were to fail, SWE envisages as a last resort a case-management hearing to list the case through to a final hearing, in any event, even if there were the continuing absence of a medical assessment. There are clear and obvious risks in the circumstances of this case of further delays. The extension of 12 months is justified, to provide 'headroom'. If there are further delays in this case, the Court can take confidence from the way in which the case has been approached and there is no need to require SWE to return to this Court to justify the ongoing ISO, during the next 12 months. If the case is resolved substantively within that period, the ISO will in any event fall away, one way or the other. Meanwhile, the ISO will be reviewed, under the review mechanism in the Regulations, every 3 months. In addition, there is the liberty to apply provision.
6. I take full account of the prejudice to the Defendant from being unable to work as a social worker, recognising the prospect that it is materially contributing to his current circumstances. But there is in this case a very clear objective justification rendering necessary the extension of the ISO, for the period of 12 months, for imperative public protection and public interest reasons.

10.5.22