



Neutral Citation Number: [2022] EWHC 111 (Admin)

Case No: CO/4340/2021

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

Thursday 20th January 2022

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND
- and -
LEE RATHBONE

Claimant

Defendant

Sadaf Etemadi (instructed by Capsticks) for the **Claimant**
The **Defendant** did not appear and was not represented

Hearing date: 20.1.22

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.

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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 is an application pursuant to paragraph 14(2) and (3) of Schedule 2 to the Social Workers Regulations 2018, for a 9-month extension to 27 October 2022 to an interim suspension order (ISO) imposed by SWE's Adjudicators on 29 January 2021, due to expire on 28 January 2022. I am satisfied, on the evidence, that the papers were delivered and signed for by the Defendant on 31 December 2021 and that he has had the opportunity to respond and to attend this hearing. There has been no such response or attendance. I am satisfied that it is in the interests of justice and the public interest to proceed today. The mode of hearing was by Microsoft Teams arranged in accordance with the practice described in O'Donnell [2022] EWHC 61 (Admin) at §2. The steps to secure open justice, described in §3 of that judgment, have equally been taken in the present case. The test and the Court's approach are as summarised in Smith [2022] EWHC 93 (Admin) at §2. The Court has a detailed witness statement of Eleanor Poole (22.12.21), a skeleton argument from Ms Etemadi (11.1.22) and a 131-page bundle of relevant materials.
2. The underlying allegations, referred on 6 January 2021 for a substantive hearing, involve three strands. The first is the allegation that the Defendant (a registered social worker) left mandatory training early, making a dishonest and false statement that he had been 'called away' to a service user. The second is the allegation that the Defendant dishonestly submitted a portfolio, as part of his university degree, containing forged signatures. The third is the allegation that while working for Liverpool City Council (LCC) the Defendant accessed a significant number of case files without the appropriate authority to do so. The context is one in which the Defendant, who was working as a family support worker, had his employment terminated by LCC in January 2019. It is right to recognise that the initial referral by LCC to the predecessor of SWE, the Health and Care Professions Council (HCPC) had taken place on 12 February 2019, but that it was only after the referral (6.1.21) for a substantive hearing that an ISO was imposed (on 29.1.21). There have been delays and difficulties in progressing the investigation, including in particular a period of long-term sick leave on the part of the principal witness, the Defendant's line manager, from whom a witness statement is required and on whom reliance is being placed as to access to audit records. This has had a knock-on effect in relation to contactability of other witnesses. What was anticipated was that the line manager would return to work on 17 January 2022 (Monday of this week), that evidence would then be collated and finalised for disclosure by March 2022 and that a 'hearing window' from about April 2022 would be sought. Ms Etemadi, updating me today, tells me that arrangements were in place to alert SWE to any difficulty or delay having arisen; that no such alert has been received; and SWE is proceeding on the basis that the line manager is indeed back at work so that matters can indeed proceed as was envisaged. A 3-month 'hearing window' will be appropriate, following a one-month period for the Defendant to respond to the disclosure. It is possible, being realistic, that the 'hearing window' could go to say July 2022. The 9-month extension to 27 October 2022 is sought in order to provide a suitable 'headroom'.
3. In my judgment, SWE has discharged the onus of showing: that the extension is necessary for the protection of the public, and is also in the public interest to maintain public confidence in the social work profession and in the regulator; and that the 9-month duration of the extension is justified as necessary and proportionate in all the circumstances. The allegations in this case are serious, involving repeated dishonesty

and concerns regarding integrity and professional judgment. I am satisfied that reasonable steps have been taken in the pursuit of the investigation, which has been delayed for reasons beyond the control of SWE, and that proper progress has been made including a realistic timeframe for a substantive resolution. Although continuation of the ISO may – and I will assume does – involve prejudice to the Defendant, that prejudice is in all the circumstances decisively outweighed by the public interest reasons relating to the need to protect the public from the risk of harm while a substantive outcome is awaited, together with the public interest and public confidence points. I grant the order in the terms sought.

20.1.22