



Neutral Citation Number: [2022] EWHC 537 (Admin)

Case No: CO/596/2022

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

Friday 11th March 2022

Before:

MR JUSTICE FORDHAM

Between :

SOCIAL WORK ENGLAND
- and -
DELLA COWDRY

Claimant

Defendant

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

Hearing date: 11.3.22

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 Coronavirus remote hearing.

MR JUSTICE FORDHAM:

1. This was the remote hearing by Microsoft Teams of a Schedule 2 §14(2)(3) Social Workers Regulations 2018 application, for a five-month extension to 19 August 2022 of an interim suspension order originally imposed by a panel of adjudicators on 20 February 2020 for 18 months and extended once by this Court which, unless extended by this Court further, is due to expire on 20 March 2022. I am satisfied that the papers, sent to the Defendant by next-day special delivery, were signed-for on 22 February 2022, as well as having been emailed, and that there is no unfairness or injustice in proceeding in the Defendant's absence, and that it is in the public interest to do so. I am further satisfied that there is no need in the circumstances of this case to include a liberty to apply in the Order which I have decided to make. I am satisfied that the mode of hearing is appropriate in light of the nature of the application (see O'Donnell [2022] EWHC 61 (Admin) §2). Indeed, remote hearings may in fact maximise the prospects that a defendant could readily access this type of hearing if they wished to do so. They would not need to travel to or be present in a court room. The open justice principle has been secured in all the usual ways, through the publication in the cause list of the case and its start time together with its mode of hearing and an email address usable by any member of the press or public who wished to observe. The onus is on the Claimant to satisfy the Court that it is necessary for public protection or in the best interests of the practitioner to extend the interim suspension order and to do so for the period of time of any extension sought and ordered. The relevant factors – see Hiew [2007] EWCA Civ 369 at §§28 and 31-33 – include regard to: the gravity of the allegations; the seriousness of the harm to the public; the reasons why the process has not been concluded; and the prejudice to the Defendant if the interim order is continued.
2. I am satisfied, applying that approach, that the Claimant has discharged the onus of showing the necessity for the extension of the interim suspension order and for its five-month extension duration to 19 August 2022. That established necessity is for the protection of the public, including in particular service users, as well as the broader public interest and public confidence. In those circumstances it is not necessary to go further and consider the best interests of the Defendant, but of course I have regard to her position and the prejudice to her in considering whether to make the Order. The concerns first raised with the Claimant's predecessor the Health Care Professions Council in January 2019 relate to conduct which included – as is alleged – the Defendant borrowing sums of money from a vulnerable service user, and supplying class A drugs to that service user. A second series of concerns then arose out of a sentence in the criminal court in January 2020 for drug-driving offending, which – it is alleged – needed to be and was not reported to the Claimant by the Defendant. In the most recent review of the interim suspension order in January 2022 the specialist review panel described the allegations against the Defendant as extremely serious and wide-ranging, including significant breaches of professional boundaries and various abuses of a vulnerable service user, together with allegations of drug-related criminal behaviour resulting in a criminal conviction for two offences. That panel was satisfied, on the material before it, that there remained a high risk of repetition of the alleged behaviour and that continuing an interim order was necessary to protect the public. Looking at the case afresh, and on the materials before me, I agree with that assessment.
3. There is no specific evidence before the Court as to prejudice to the Defendant from the continued suspension but any prejudice that does arise – and I assume that it does –

is in my judgment plainly outweighed by the strong public interest factors in favour of continued suspension, as an interim measure while the case awaits its substantive determination. The investigation has proceeded through to completion and full case papers were served on the Defendant in August 2021. A principal reason why the case has not been concluded is that a panel seized of a five-day hearing on 13 December 2021 decided that in fairness to the Defendant it would not be appropriate to proceed in her absence. That was in light of questions which the panel had, in particular concerning a hearing notice which, by oversight, had only been sent by email, in circumstances where some documents sent in hardcopy had been returned but, importantly, in circumstances where it was acknowledged the Defendant had asked for hardcopy rather than email and had indicated that she was not, or at least not regularly, accessing her email inbox. The hearing was vacated and a new (priority) listing window of 1 May 2022 to 30 June 2022 was identified and, subsequently, a specific (priority) listing of 9-13 May 2022 has been fixed. The previous adjournment is regrettable, as is the accepted oversight, which the Claimant has properly acknowledged. These are relevant features for the Court to bear in mind in favour of the Defendant and not in any way to hold against her. Even taking account of the fact of the acknowledged default so far as concerns the adjournment of the December 2021 hearing, it would nevertheless still plainly not be in the public interest – and it would undermine the imperative of protection of the public – for the interim suspension order in this case to be allowed to expire. There is a clear necessity in ordering its continuation. The extension sought to 19 August 2022 properly includes a necessary headroom in case matters have not been concluded by 13 May 2022. If all proceeds smoothly without any need for any further step the substantive determination – whatever it is – will mean that the interim order will in those circumstances in any event fall away. I make the Order in the terms sought.

11.3.22