



Neutral Citation Number: [2023] EWHC 2457 (Admin)

Case No: AC-2023-LDS-000199

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

Thursday, 5th October 2023

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND

- and -

PETER CHARLES FLETCHER

Claimant

Defendant

Alex East (instructed by Capsticks LLP) for the **Claimant**
The **Defendant** did not appear and was not represented

Hearing date: 5.10.23

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 delivering an ex tempore judgment in a remote hearing.

MR JUSTICE FORDHAM:

Extension of ISO

1. I am satisfied that SWE has discharged the onus of demonstrating the necessity, for the protection of the public including public confidence, of a 14-month extension to 15 December 2024 of an Interim Suspension Order (“ISO”). The ISO was originally imposed for 15 months on 19 February 2021. It was extended by this Court, by consent, for 6 months on 2 August 2022 and for a further 6 months on 4 April 2023. The extension is pursuant to Schedule 2 §14 of the Social Workers Regulations 2018. The guidance in GMC v Hiew [2007] EWCA Civ 369 at §§28, 31-33 applies. I am satisfied that the extension, the nature of the interim order being extended, and the duration of the extension are all justified as necessary in the interests of public protection including public confidence. I do not therefore need to consider whether they would also be justified, as SWE says they are, in the Defendant’s own interests.

The Defendant’s Position

2. The Defendant has been served with the papers. He responded by email (undated in the papers put before me) in which he said he was “still deciding what to do”. He emphasised that he wanted his own concerns to be addressed objectively by SWE’s processes, about which processes he has expressed doubts. SWE’s solicitors – very properly – had not placed before the Court a draft statement provided by him, but which was marked “not for service”; they asked him to clarify whether he wished to file it with the Court. My clerk emailed the parties. In further communications – which were regrettably not supplied direct to my clerk, notwithstanding the direct communications from her – the Defendant had said “I’m not contesting your application” and said that he “won’t be available for the hearing”. He also said that he was relying on the statement. That is a 7-page detailed statement which I read at the hearing. In it, the Defendant explains that he does not “agree” with the further extension, but nor does he “contest” it. He also confirms that he has no desire to resume work as a social worker. I am satisfied that it is in the interests of justice to proceed today; not to adjourn; nor to allow the ISO to expire on 16 October 2023. I do not treat the application for the extension as agreed. It is not agreed. Nor is it contested. There is no Consent Order. I am satisfied that I should address the application on its merits. That is what I have done.

Discussion

3. As the skeleton argument of Mr East for SWE accurately summarises, the allegations against the Defendant include wide ranging practice based failings including a failure to complete assessments and care plans in a timely manner, a failure to safeguard the public by not completing necessary visits, a failure to maintain accurate case records and a failure to provide the courts with relevant information in a timely manner. These allegations would involve fundamental aspects of social work practice, and the alleged concerns gives rise to a risk from which the public requires protection. There are other matters including whether fitness to practise is impaired on health grounds. These are all allegations only. This is not the stage, nor the forum, to be making findings of fact. What is needed instead is to consider the questions of risk, public protection and proportionality.

4. SWE has rightly specifically brought to my attention that, when this Court gave the 6 months extension (4 April 2023), the Judge indicated that the Court expected resolution within those 6 months or an explanation why not. I have received a clear explanation, in a witness statement and chronology, and updating evidence, of the various steps which have been taken and pursued. One strand has been that 3 months (June to August 2023) involved correspondence to pin down whether the Defendant would consent to an independent health assessment. There have been proper and necessary steps to pursue evidence. One development is that the Defendant made an application for voluntary removal from the register of social workers. This was on 26 June 2023. It was considered but ultimately refused on 8 September 2023.
5. The fact that the Defendant does not wish to return to practise as a social worker means this is not a case where the ISO and ongoing delay are going to be causing the sort of prejudice seen in some other cases. I accept that there is a degree of prejudice, and a position of ‘limbo’, but these yield decisively to the public protection imperatives. I have concerns about the generic ‘bigger picture’ in these cases, which I have expressed in another judgment today: see [2023] EWHC 2456 (Admin). But the present case is not one – viewed against the bigger picture – in which the lengthy extension fails to give the right signal. In all the particular circumstances of the present case – including in particular what I have said about the Defendant’s position – I would not criticise the identification of the second half of 2024 as the next available window for a hearing (unfixed at present), with the full case anticipated to be disclosed in February 2024. I do not think this is a case which needs more closely monitoring by this Court in the meantime.

CPR 5.4C

6. Finally, I have been asked to Order that the parties be given 14 days’ notice should a non-party make an application to obtain documents other than the claim form, judgment or order (pursuant to CPR 5.4C(2)), before the Court considers any such application, and that the parties be given the opportunity to respond to the application (including proposals for editing/ redacting sensitive content). The justification given is that part of the allegations relate to the Defendant’s health condition and medical reports may contain sensitive information which should remain private.
7. I am concerned that such an Order may now be being included in these claims routinely. I was not asked to hold a private hearing or anonymise the Defendant, and I am satisfied that these were not necessary steps. I emphasise that it is not said that the Court should restrict access (CPR 5.4C(4)) to the claim form, judgment or order. I also emphasise that the Court’s permission is needed in any event to obtain other documents (CPR 5.4C(2)) and notice can always be considered should an application be made. I will, however, in the special circumstances of the present case grant the Order sought. I have referred to the fact that there is an allegation – and it is only an allegation – relating to health. I have noted that the documents before the Court include a specific medical report. I have said in this judgment that I do not need to address whether suspension is in the Defendant’s own interests. I am not at all sure that the Court needed that medical report for the purposes of this application. The open justice considerations which are engaged by this judgment – which concerns an interim stage of proceedings – have not involved my saying anything about the nature of the health issue. Notice will allow SWE and the Defendant to consider the position, if a CPR 5.4C application is made.

Viewed in the round, I consider the direction to be necessary, justified and proportionate.

Order

8. I will Order as follows: (1) The Interim Order made on 19 February 2021, and extended by the Court on 2 August 2022 and 4 April 2023, which would otherwise expire on 16 October 2023, be extended by a further 14 months until 15 December 2024. (2) The Interim Order shall be reviewed in accordance with Schedule 2 Part 4 Paragraph 14(1) to the Social Workers Regulations 2018. (3) Any application to obtain documents relating to this Order, made by a non-party under CPR 5.4C, shall be notified to the parties who shall have a minimum of 14 days' notice before a decision is made. (4) No order as to costs.

5.10.23