



Neutral Citation Number: [2024] EWHC 86 (Admin)

Case No: AC-2023-LDS-000301

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

Tuesday, 23rd January 2024

Before:
FORDHAM J

Between :
SOCIAL WORK ENGLAND
- and -
WILLIAM YALDEN

Claimant

Defendant

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

Hearing date: 23.1.24

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.

FORDHAM J

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

FORDHAM J:

ISO Extension

1. As always in these cases, this application for an extension of an Interim Suspension Order (ISO) is pursuant to Schedule 2 §14 to the Social Workers Regulations 2018 and the guidance in GMC v Hiew [2007] EWCA Civ 369 at §§28, 31-33 applies. The Defendant sent an email on 11 January 2024 confirming that he has received the papers and that “ultimately I am not fussed by the interim order being extended or not”. He is recorded as having in June 2022 said that he wants nothing to do with social work. I am satisfied that it is necessary and appropriate to proceed today in his absence. I am also satisfied that SWE has demonstrated the necessity of an extension of an interim order, to continue as an ISO, pending final hearings on the two linked aspects of this case of other disposal of the disciplinary process. The first aspect concerns allegations of accessing a child’s records without professional cause to do so in 2022 while employed by a local authority. The second aspect, which became a second and distinct strand of investigation, involves a number of allegations arising out of events between November 2021 and May 2022. They include allegedly fabricating visits to families, false recording, and failure to undertake statutory visits and assessments. They are allegations only. But they are serious concerns. It is necessary for the protection of the public and in the public interest that the ISO should continue.

CPR 5.4C and Notice

2. In the particular circumstances of the present case, I will also accede to SWE’s invitation to direct 14 days prior notice to the parties of any non-party application for the Court’s permission (CPR5.4C(2)) to obtain copies of any document other than a statement of case, judgment or order; but I am adding liberty to any person to apply on notice to expedite that process. As in SWE v Hunn [2023] EWHC 2609 (Admin) at §3, my attention has been drawn to specific documents in the bundle relating to medical matters. The liberty to apply protects any person who wishes to argue that urgent access from the court records is justified. I am not ruling on any third party application. Nor am I restricting access (CPR5.4C(4)) to any claim form, judgment or order. I am simply making provision as to prior notice.
3. The Administrative Court Leeds User Group Meeting minutes (17 October 2023) are published. They explain that the approach to orders requiring notice, of third party applications to access documents from court records (CPR5.4C), had featured in recent judgments. The same issue arises in GMC cases in Manchester where practical issues have been raised by GMC (see Administrative Court Manchester User Group minutes for 12 December 2023). The general practices and approach to this CPR5.4C notice issue, and the general practices of regulators and the Court, may be ripe for consideration in an appropriate case. SWE and GMC may wish to liaise about this issue to ensure that any decision by the Court is made on a fully informed basis. But that is all for them and all for the future.

Duration

4. That leaves the question of the duration of the extension. In the present case I have been given the same evidential picture – including as to currently available resources – as I set out in SWE v Sobrany [2024] EWHC 67 (Admin) at §8. This is a case involving

two strands of investigation which it may be appropriate to link. Case Examiners referred the ‘access to records’ allegations to a final hearing by a decision on 30 May 2023. The other strand of investigation is currently before the Case Examiners and was recently paused to afford the Defendant a further opportunity to make any representations or observations. It is now unpaused. The case investigation reports were finalised for disclosure in the two strands in January 2023 and September 2023 respectively. The Court has been given a detailed chronology.

5. The evidence is that SWE has no “current” capacity to list new hearings until “after” April 2025. Mr Harris’s helpful skeleton argument describes a hearing “after” April 2025 as a realistic timeframe. The extension is sought for 18 months to 10 August 2025. I can understand why. That headroom, as Mr Harris explains, reflects that two months of work is needed to prepare to come back to this Court, and there is a risk of some diversion of attention and resource. He also points out that the ongoing prejudice to the Defendant in this case is tempered by the Defendant having recorded that he does not wish to continue as a social worker.
6. I recognise the position as things stand, including the current resources picture. I recognise of course the importance of due process. I recognise SWE’s case-load. And I appreciate SWE’s predicament. But I am not prepared to adopt, as a premise, that the resources picture will be left unimproved and unaddressed. I also have regard to the prejudice arising from matters dragging on, in light of the Defendant’s expressed and understandable wish to see “the end of it”. I am prepared, in the particular circumstances of the present case, to extend the ISO for 16 months to 10 June 2025. But I decline an extension for the full 18 months sought. If the case is incapable of final resolution within that timeframe SWE will need to return to this Court with an explanation, including what was done about sourcing the additional resources which SWE’s evidence recognises are badly needed, in the context of a picture which is accepted to involve unacceptable timescales. In my judgment, 16 months as a further extension at this stage is necessary and proportionate.

Order

7. I will make the following Order. (1) The Interim Order made by the Claimant’s Adjudicators on 11 August 2022, which would otherwise expire on 11 February 2024, be extended by 16 months until 10 June 2025. (2) The Interim Order shall be reviewed by the Claimant’s Adjudicators in accordance with Schedule 2, Part 4, Paragraph 14 (1) of the Social Workers Regulations 2018. (3) Subject to paragraph (4) of this Order, any application to obtain documents other than the claim form, judgment or order made by a non-party under CPR 5.4C, is to be made on at least 14 days’ notice to the parties. (4) Any person has liberty to apply in writing on notice to the parties to abridge the time for notice in paragraph (3). (5) There shall be no order as to costs.

23.1.24