



Neutral Citation Number: [2022] EWHC 3005 (Admin)

Case No: CO/4033/2022

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

Friday 25th November 2022

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND
- and -
ROBERT JOHN WARDALE

Applicant

Respondent

Marte Alnaes (instructed by Capsticks) for the **Applicant**
The **Respondent** did not appear and was not represented

Hearing date: 25/11/22

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 was a remote hearing where the open justice principle was secured through the publication of the hearing details in the Cause List with an email address usable by any member of press or public who wished to attend. Pursuant to §14(3) of Schedule 2 to the Social Workers Regulations 2018, I am going to extend for 8 months to 12 August 2023 the Interim Conditions of Practice Order which SWE's adjudicators imposed for the maximum 18 month period on 14 June 2021. I decline the full 12 month extension period which was sought.
2. Having regard to the overarching objective (section 37 of the Children and Social Work Act 2017) and the principles in GMC v Hiew [2007] EWCA Civ 369 at §§28 and 31-33, I am satisfied that SWE has discharged the onus of demonstrating the necessity and proportionality of (i) the fact of the order (ii) the nature of the order and (iii) its duration (but only for 8 months), in the interests of protection of the public and public confidence.
3. The matters in question relate to work as a social worker for two different local authorities, and alleged defaults in undertaking visits required for child safeguarding purposes. One incident relates to a failure to undertake a child visit which was nevertheless recorded as having been undertaken. That incorrect record is said by the Respondent to have been human error, in circumstances of intense working pressures. But it is said against him to have been dishonest: that is a serious issue which it is not my role to determine one way or the other. Other aspects relate to safeguarding and a sibling group. The Respondent says that was appropriately escalated to the family court with no challenge at the time to his practice.
4. The Respondent has engaged in the process. He has engaged with today's hearing by sending a measured and informative written representation. His position is that if an extension is granted at all, it should not be for 12 months which he submits is excessive. He emphasises that he has complied fully with the interim order throughout; that he has held two social work roles during the period. There were positive reports in September and November 2021 and February 2022 about his work as an independent social worker. Since July 2022 he has been working as an agency social worker within a child protection team, with a supervisor report raising no concerns. He explains that he has sought, and completed, accredited training and believes he has demonstrated that no further restriction on his practice is necessary.
5. At the latest review on 4 October 2022 the review panel noted all of the positive information but concluded that it was necessary for public protection and public confidence purposes to maintain the conditions of practice order. I agree with that assessment and the reasons which the panel gave for it. There is an ongoing process where the substantive determination by the fact-finding authority has yet to conclude, including the as yet undetermined question as to dishonesty.
6. The Respondent has identified the impact of the interim order on his professional reputation and the loss of work as a direct result, with what he says is a huge financial impact on himself and his family. He says that, now that the case has reached the case-examiner phase, with submissions from him due now, the 12 month period of extension sought appears extremely excessive.

7. I am concerned about progress in this case and, in that context, the length of the extension sought. The reasons why the case has not concluded are said by SWE to be linked in part to the fact that there are two separate sets of matters with distinct origins; that investigative steps were regrettably delayed in circumstances where two different case-handling investigators left SWE; and where disclosure was needed from the family court. Progress has now been made through to case reports and bundles shared with the Respondent and his prescribed time frame of 28 days for a response: due on 17 and 30 November 2022. There will then be a Case Examiners review and any referral. If this case is proceeding to a hearing, draft papers would need to be prepared, with a prescribed period for response, then a hearing date arranged, and any witnesses warned. SWE's position is that 12 months is needed. It is a real concern that this case has not progressed at greater speed to this point. The matters came to SWE's attention in November 2020 and March 2021. I think that affects what happens now. I think the right signal from this Court is that this case needs now to be progressed through to a conclusion – whatever that is – with all promptness that is reasonably achievable. Mid-August 2022 is the latest long-stop I am prepared to give today, in the circumstances as they currently are. I accept that there are prescribed timeframes going forward, which are protective of the Respondent's rights. I also bear in mind, in considering proportionality and prejudice, that this is a conditions of practice order. Its terms essentially require various arrangements for notification (including of clients), plus reporting and supervision. I am not prepared to allow the Interim Conditions of Practice Order to expire in December 2022. But I agree with the Respondent that an extension of 12 months today would be excessive in the current circumstances.
8. If the case concludes earlier than August 2022, the interim order will fall away. My Order will also reflect the ongoing review function and I know, and would expect, any future review panel to look carefully again, as they have previously and I have today, at whether a time has now come when conditions of practice can and should be lifted or relaxed. I also make clear that there is a safeguard for SWE and in the public interest, if it proves not to be reasonably practicable for this case to be concluded within the newly extended period. If that is the position, SWE will need to return to this Court and explain, and the circumstances – as they then are – can be considered by the Court. There could, if justified as necessary, be a further extension. All of that is how it should be. I grant SWE's application, in part. There will be no order as to costs.

25.11.22