



Neutral Citation Number: [2022] EWHC 119 (Admin)

Case No: CO/4350/2021

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 -
PANKAJ GUPTA

Claimant

Defendant

Sadaf Etemadi (instructed by Capsticks Solicitors) 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.

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 by SWE, pursuant to paragraph 14(2) and (3) of Schedule 2 to the Social Workers Regulations 2018, for a 7-month extension to 30 August 2022 to an interim suspension order (ISO) currently due to expire on 31 January 2022. The mode of hearing was by Microsoft Teams, arranged as described in O'Donnell [2022] EWHC 61 (Admin) at §2. The steps described in §3 of that judgment have also been taken in order to secure the open justice principle.
2. I am satisfied, on the evidence, that re-delivery of the papers to the Defendant was appropriately arranged on 13 January 2022, with the redelivery taking place on 15 January 2022, and that the Defendant collected and signed for the papers on 16 January 2022. That was in circumstances where an earlier attempt to get the documents to him had been unsuccessful according to Royal Mail's 'track and trace'. The Defendant has had the opportunity to respond, and no response has been received. It is also the case that there is, this week, Part 2 of the final hearing of his case (5 days), currently taking place with his involvement (also by MS Teams). Part 3 will be later in the year. Ms Etemadi tells me that the substantive hearing days can usually run from 0930 up to 1730, but that there is room for flexibility. The Defendant will be well aware of the ISO expiry date of 31 January 2022, that date being contained in a previous Court Order to which he consented, and the Defendant having signed for and received the case papers relating to today's hearing. He could have requested space being made for him to attend this hearing, using the flexibility of the substantive hearing. Or he could have requested a different timing from this Court (for example, 9am) of this hearing, which I would have accommodated. I am satisfied that it is in the interests of justice and the public interest to proceed today, and that provision for 'liberty to apply' is not necessary.
3. The test and Court's approach are those summarised in Smith [2022] EWHC 93 (Admin) at §2. The Court has a detailed witness statement of Eleanor Poole (12.12.21), a skeleton argument from Ms Etemadi (14.1.22), and a 479-page bundle of relevant materials.
4. An ISO was first imposed, by SWE's regulatory predecessor the HCPC (the Health and Care Professions Council) on 2 November 2018 for a period of 18 months. At a review on 12 November 2019, that ISO was replaced with an ICPO (an Interim Conditions of Practice Order). That ICPO was subsequently the subject of two 8-month extensions each granted by HHJ Belcher in this Court, on 20 April 2020 and 18 December 2020. Then on 29 April 2021 the ICPO was replaced with an ISO, itself due to expire on 1 September 2021 (pursuant to the December 2020 extension). A further 5-month extension was ordered by this Court, with the Defendant's consent, on 18 August 2021 to 31 January 2022.
5. That latest extension was in circumstances where the final hearing of the underlying investigations was imminent. The underlying procedural position today is this. The final hearing commenced and took place between 13 September 2021 and 1 October 2021. However, that proved only to be Part 1: it was not possible to complete the hearing and it adjourned part-heard. In light of the nature of the matters which remained outstanding it was necessary to fix Part 2 of the hearing to take place between 17 and 21 January 2022 (5 days) – this week – and Part 3 of the hearing to take place between 27 June 2022 and 22 July 2022 (19 days). All of this was confirmed in a letter from SWE to the Defendant dated 20 September 2021. SWE explains, and I accept, that those

were the earliest viable dates on which the continuation of the substantive hearing could sensibly be accommodated. These circumstances also explain why the 7-month extension now sought runs to 30 August 2022, to allow a little over a month by way of ‘headroom’.

6. As is obvious from this description, the underlying case is of complexity. It is also, however, now nearing its substantive final resolution. The underlying features of the case relate to the activities of an ‘independent fostering agency’ of which the Defendant was a director as well as being the ‘registered individual’ responsible for managing the fostering service. What is said is that in the autumn and winter of 2017 monitoring visits by Ofsted inspectors to the agency highlighted managerial failures: failures in identifying, and acting upon, known risks to children in order to keep them safe. It was found that some fostering assessments had been undertaken by a student in psychology; that others had been undertaken by a law student; that some children had been placed with foster carers who did not have the information, understanding or guidance necessary to support the safety of the children; that poor quality risk assessments had been undertaken; and that there were many other managerial shortcomings. As a result of all of this, the registration of the agency had been cancelled.
7. The November 2019 replacement of the then ISO with the less intrusive measure of an ICPO was in the light of submissions from the Defendant that he wished to undertake a diploma in social work, to improve his skills and knowledge, and it was considered that he had demonstrated development of some insight. It was concluded, at that stage, that an ICPO preventing him from undertaking any managerial or supervisory role was appropriate and proportionate, and the continuation of the previous ISO was not necessary. What later happened in April 2021 at a review was that concerns about the absence of any meaningful engagement for a considerable period of time, and the absence of any update as to current practice, or as to any training or development, or any further reflections by the Defendant, were identified as a position leading to serious concerns. The panel of adjudicators considering the matter on that occasion considered that an ICPO – including the addition of yet further conditions – was not capable of allaying the concerns that arose, and that the only appropriate order which could be imposed to address those concerns was one of suspension. It was in those circumstances that an ISO was reinstated.
8. In my judgment, SWE has discharged the onus of showing: that continuation by this Court of the ISO is necessary for the protection of the public, including the need to maintain public confidence in the social work profession; and that the duration of the extension sought is necessary and proportionate. The allegations in this case are serious and wide-ranging, involving multiple failings. The concerns which gave rise to the reinstatement are themselves serious. It would not, in my judgment, be in the public interest, or consistent with the public interest imperatives concerning protection of the public and public confidence, for the Defendant to have his ISO lifted or an ICPO reinstated, pending the completion of the final hearing and the substantive determination which will in due course later this year be made. I grant the order in the terms sought.