



Neutral Citation Number: [2022] EWHC 574 (Admin)

Case No: CO/637/2022

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

Tuesday 15th March 2022

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND
- and -
ONYEKACHI ONWU

Claimant

Defendant

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

Hearing date: 15.3.22

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 the Claimant's application, pursuant to Schedule 2 §14(2)(3) to the Social Workers Regulations 2018, for a twelve-month extension (to 15.3.23) of an interim suspension order ("ISO") originally imposed by a panel of adjudicators (18.1.19 for 18 months) and twice extended by this Court (14.5.20 for 8 months; 10.3.21 for 12 months). Unless further extended by this Court, the ISO is due to expire tomorrow (16.3.22).
2. I am satisfied that the papers were sent to the Defendant (on 1.3.22) by next-day special delivery. Investigations with Royal Mail by phone have provided what, I am satisfied, is good evidence (8.3.22) that they was delivered and not returned (albeit that the scan-process to record 'signed-for' status was evidently not completed by the driver as it should have been). The papers were also emailed (on 1.3.22) to the email address provided by the Defendant, and held on the Claimant's register, with no email 'bounce-back'. On the evidence, the Defendant has not communicated with the Claimant since January 2019, including in relation to several reviews of the ISO and two extensions of it ordered by this Court. I am satisfied that there is no unfairness or injustice in proceeding today, in the Defendant's absence, and that it is in the public interest to do so. I am also 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.
3. I am further satisfied that the mode of hearing is appropriate in light of the nature of the application. 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 this public hearing.
4. The Claimant has the onus of satisfying the Court that it is necessary for public protection (that being the ground that is relevant in the present case) to extend the ISO and that it is necessary and proportionate to do so for the period of time of that extension. The relevant factors – see Hiew [2007] EWCA Civ 369 at §§28 and 31-33 – include regard being had by the Court 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. I am satisfied, applying that approach, that the Claimant has discharged the onus of showing the necessity for the extension of the ISO and for its twelve-month extension duration to 15 March 2023. 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.
5. The concerns, first raised with the Claimant's predecessor the Health Care Professions Council in November 2018, arose out of an arrest and investigation being commenced by North Yorkshire Police. An individual's post was being said to have been intercepted by the Defendant and, unknown to that person, a credit card account had been set up in that person's name. Various bank cards in various names were then found on a search of the Defendant's home. Those matters have been under investigation ever since. But then in December 2021 – 3 years later – the Claimant was informed by Gloucestershire police that it had been investigating similar alleged offending, arising out of the same pattern of stealing and exploiting people's post, evidently from their letter boxes.

6. The Claimant had properly concluded, and has properly maintained, that it is unable to and should not seek to progress its own investigation until the criminal proceedings have been completed. Regular progress reports have been obtained from the police. The latest position regarding Gloucestershire police is that their investigation is complete, that matter has been referred to the CPS, a charging decision is awaited, but the CPS has not been able to indicate a specific time-frame for that decision. The latest position in relation to the North Yorkshire police matter is that on 20 February 2022 the investigating police officer at York and Selby – who had previously estimated 3 March 2022 as a date for finalising that investigation – reported the latest developments: there was a further freezing order on certain bank accounts of the Defendant, to expire in July 2022; the police were now awaiting responses from several financial institutions to production orders made under the Police and Criminal Evidence Act 1984; and alongside that there was still data to be extracted and reviewed from seized devices. The Claimant’s expressed expectation had and has been that the period to 15 March 2023 would be sufficient for the criminal proceedings to conclude and the Claimant’s fitness to practise proceedings then to be brought to a conclusion. In light of the latest updates, that remains the Claimant’s hope. It may or may not prove to be possible. If not, a further application will need to be made to this Court where the position can be scrutinised. The application today is for a 12-month extension. The maximum which this Court could order would be an 18-month extension. In my judgment the Claimant has acted properly and responsibly in not seeking anything beyond 12 months, but in seeking an extension of that duration. In all the circumstances, I am satisfied that 12 months is necessary and proportionate. The delay is substantial, and it is right to have well in mind the prejudicial effect of an ongoing interim suspension. Having said that, there is no indication of any concrete prejudice. The latest review panel meeting (25.2.22) recorded that the Defendant had registered as a social worker on 9 October 2018 – a month before the North Yorkshire police referral – and that “it is not known whether he ever actually worked as a social worker”. Any prejudice that does arise 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.
7. In its reasoning (on 25.2.22), in reviewing the continuation of the ISO, the review panel said the following: that there appeared to be cogent material to support the allegations which the two police forces are investigating; that the allegations are very serious, relating to wide-ranging alleged criminal behaviour involving dishonesty, fraud and apparently money laundering; that what is alleged includes a multitude of credit cards, dishonesty occurring repeatedly and over a considerable period of time; that the alleged behaviour was particularly of concern because it goes against core social work values and principles, including all the requirements of the profession in terms of honesty and integrity; that social workers are entrusted with much personal and sensitive information and their work involves working with vulnerable service users; that social workers often have access to service users’ homes and personal information and finances; that social workers are expected to deal with property and finances, in an honest way, and not financially to exploit persons for whom they are responsible; that there is in this case an apparent pattern of dishonesty giving rise to a risk of repetition; that the Claimant is dependent upon the police investigation, in circumstances where there does not appear to be any independent line of enquiry which it could investigate; that the delay has been extensive and that it is to be hoped that the police investigation will conclude soon and that charging decisions can soon be made; but that the extensive

delay does not diminish the risks identified; that a lesser (conditions of practice) order would not be workable or practicable given the nature of the concerns and the lack of engagement from the Defendant, nor would it be sufficient to protect the public or maintain public confidence in the profession; and that the continuation of the ISO is necessitated having regard to the risk of harm to members of the public including service users, and necessitated to maintain public confidence in the profession and uphold the required standards for social workers. Having considered the facts and circumstances of this case, I entirely agree with that cogent reasoning. The twelve-month further extension sought is plainly justified as necessary and proportionate. I will make the Order in the terms sought.

15.3.22