



Neutral Citation Number: [2024] EWHC 67 (Admin)

Case No: AC-2023-LDS-000292

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

Friday, 19<sup>th</sup> January 2024

**Before:**  
**FORDHAM J**

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**Between:**  
**SOCIAL WORK ENGLAND**  
**- and -**  
**TARIK SOBRANY**

**Claimant**

**Defendant**

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

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Hearing date: 19.1.24

Judgment as delivered in open court at the hearing

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**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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FORDHAM J

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

**FORDHAM J:**

1. This is an application for an extension of an Interim Suspension Order (ISO). The Defendant has engaged with the proceedings and, through his solicitors, has expressly confirmed (i) that he does not oppose an extension of 9 months (to 31.10.24), but (ii) that he does not accept that, and asks the Court to scrutinise whether, the 18 month extension sought by SWE (to 31.7.25) is justified. As always in these cases, the extension 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. In the circumstances, where an extension is unopposed by the Defendant and the only point put in issue is the duration, I am satisfied that there is no need for me today to say any more about the underlying allegations against the Defendant in SWE’s regulatory proceedings. Had SWE agreed that a 9 month extension is appropriate, this claim for an extension would have been disposed of by a consent order.
2. The ISO was imposed on 2 August 2022. The referral to SWE dates back to 17 August 2020. The Court has been given a detailed procedural chronology. The Case Investigation Report was produced on 31 March 2022. The case was referred by Case Examiners on 25 October 2022 for a final hearing. On 7 September 2023, directions were given for a final hearing, listed on 8-19 July 2024. The written Case was served on 31 October 2023.
3. As to resources and caseload, I say immediately that I understand SWE’s predicament. SWE has, rightly, been candid with this Court. In a witness statement dated 18 December 2023, to which I will return later in more detail, the Head of Hearing Operations and Case Review (Eleanor Poole):

*acknowledges that the current timescales are unacceptable.*

4. Ms Poole’s witness statement confirms that this case “has a listing date of 8-19 July 2024” and Mr Harris’s skeleton argument describes the case as “listed” for those dates.
5. Leaving aside resource issues and SWE’s caseload as a whole, nothing has been put forward which suggests the July 2024 hearing date is or should be at risk. Indeed, the contrary has expressly been acknowledged. Mr Harris has given me an update this morning of what is happening in the proceedings, but the key point is that he expressly accepts that there is no reason to consider that those matters and developments would put the July 2024 hearing date in any jeopardy. As he went on to put it, there is no specific or current reason to think that the hearing will not go ahead.
6. Ms Poole says “there is a risk” of the hearing not proceeding in light of SWE’s “current financial position”. She also tells me that, if the hearing slot were missed, a hearing before April 2025 is unlikely in SWE’s “current position”. Mr Harris’s skeleton argument describes the same “risk that the hearing may not proceed as listed”. Alongside this, I think I need to put another risk. It is the risk that the High Court approving a long extension – in this case 18 months in a case which is ripe for a hearing and has a fixed hearing 6 months away – could be perceived as a judicial acceptance or endorsement of the hearing slot being missed, in the context of a situation acknowledged as unacceptable and under-resourced.

7. The answer in this case – in my judgment – is an extension of the 9 months agreed by the Defendant. 9 months is necessary, justified and proportionate. That will allow the final hearing, within the directed time-frame (with a few months additional headroom). If SWE fails – through lack of resources or otherwise – to deal with the case within that time-frame, it can expect to need to come back before the High Court and justify its position. It should consider, in any such circumstances, what further visibility to afford the Court (cf. R (QH) v SSHD [2020] EWHC 2691 (Admin) [2021] PTSR 420 at §27) about knock-on effects and other more pressing and more disadvantaged cases, as well as any update about the resourcing position. For his part, in any such circumstances, the Defendant may wish to provide specific evidence of the practical implications for him of ongoing interim suspension. I am not ordering that the July hearing date must be maintained, even in the face of some currently unknown eventuality about caseload and slotting in even more pressing cases. I am saying that it is a proper use of judicial resources, compatibly with the overriding objective and the public interest, that a full explanation and justification would need to be given. SWE will, or will not, cross that bridge if and when we get to it. But I am not going to accelerate SWE across that bridge by a court order today. One of the features of the public interest in interim orders being continued is that public protection and public confidence engage high expectations about what happens and what is allowed to happen. It is obvious that any judge or decision-maker would allow any public interest-based interim order to lapse – where the interim order is otherwise justified – only with great circumspection. But the Court has an important statutory role, suspension has serious consequences, and the passage of time and the impact on the social worker are relevant considerations in grappling with what is justified as necessary and proportionate. Mr Harris reminds me of the costs implications of SWE having to come back to this Court, and I have considered that feature, but I am satisfied that the just and proportionate course remains the one which I have identified.
8. I return finally to record what I was told about SWE’s predicament and its “current financial position”. This, as I have said, was helpfully explained in Ms Poole’s witness statement. Within it, she says this:

*28. The Claimant is constituted as an Arm’s Length Body (ALB) of Government. As an ALB, the Claimant operates within a financial framework which is not the same as other professional regulators in health. For example, it is unable to hold reserve funds and therefore lacks the financial flexibility to be able to respond to challenges with its resources. The Claimant is funded through a combination of grant-in-aid and registration fees paid by social workers. The level of grant-in-aid is determined annually by the Secretary of State, who is also responsible for any decision to increase registration fees.*

*29. Of the Claimant’s overall budget, approximately 70% is spent directly in delivering regulatory functions, 20% on core enabling functions which support regulation and 10% on the policy, communication and engagement aspects of regulation. While the Claimant continues to focus on being as efficient as possible, as a small organisation there is very limited scope within their budget to re-focus spending from other activities to address the challenge in hearings.*

*30. Since the Claimant became the specialist regulator of social workers in England in December 2019 it has seen higher levels of fitness to practise concerns referred to it than anticipated during its establishment (approximately 30% more than anticipated). Alongside this, the Claimant inherited 1,459 fitness to practise investigations from the Health and Care Professions Council. Disposal of these aged cases has been a priority for the Claimant. These factors have resulted in longer wait times to progress investigations and hold hearings with the resources the Claimant has available.*

*31. The Covid-19 pandemic further impacted on the Claimant's ability to progress investigations. In order to enable the social work workforce to concentrate on responding to the pandemic, during that time the Claimant sought to progress cases where there was a higher risk to the public. With the lifting of restrictions associated with the pandemic the Claimant has now resumed a normal level of service and is working through cases based on risk assessment and age.*

*32. Investigations that are sufficiently advanced are being listed for a hearing in priority of risk and age. At present, the schedule for final hearings is full to the end of March 2025, unless the Claimant's financial position changes. Any final hearing that has not yet been scheduled (or in the event of adjournment or postponement) will be heard after this date. As set out in paragraph 14(1)(b) of Schedule 2 of the Regulations, the Interim Order will continue to be reviewed by the Adjudicators every 6 months. All fitness to practise cases are regularly reviewed and, in the event of a change in risk, the Claimant (as set out in paragraph 14(1)(c) of Schedule 2 of the Regulations) may consider if an early review of the Order by the Adjudicators is required. At an early review an Interim Order can be varied, revoked or continued. The Social Worker may also provide information to the Claimant to enable it to reassess the level of risk at any time and can request that the Claimant exercises its discretion to consider holding an early review of their Order.*

*33. The Claimant acknowledges that the current timescales are unacceptable, however, they cannot hold any more final hearings unless the Claimant's financial position changes.*

*34. In order to ensure investigations are completed as quickly and efficiently as possible, the Claimant is working collaboratively with key organisations that provide relevant information, such as social work employers, to expedite the provision of that information. It is hoped that these actions will reduce the overall delay during the investigation stage. Additionally, in order to maximise available resources, the Claimant reviewed its Rules and Regulations across 2022 to ensure that fitness to practise operations are as efficient, effective and proportionate as possible. This included introducing other case disposal options, such as voluntary removal and greater Case Examiner accepted disposal options. The Claimant continues to explore operational efficiencies to all fitness to practise processes and consider further ways to resolve cases without a requirement to hold a final hearing. These efficiencies may reduce the number of cases requiring a final hearing, but will not allow for more final hearings to be held - only a change to the Claimant's financial position will achieve this objective. The Claimant continues to explore future funding options that may allow them to increase capacity to progress more cases to hearings.*

9. I will grant the extension sought, but only for 9 months.

19.1.24