



Neutral Citation Number: [2022] EWHC 3007 (Admin)

Case No: CO/4033/2022

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

25th November 2022

Before:

MR JUSTICE FORDHAM

Between:

SOCIAL WORK ENGLAND
- and -
NTANDOYAKHE NCUBE

Applicant

Respondent

Isabel Baylis (instructed by Capsticks Solicitors LLP) for the **Applicant**
The **Respondent** appeared in person

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.

MR JUSTICE FORDHAM:

1. Pursuant to §14(3) of Schedule 2 to the Social Workers Regulations 2018, I am going to extend for seven months to 16 July 2023 the Interim Suspension Order (“ISO”) which SWE’s adjudicators imposed for the maximum 18 month period on 18 June 2021. 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. The Respondent was notified of the hearing on the papers were provided to her as was the link so that she could join the hearing if she wished to do so. She did so. She told me that she did not wish to make any representations. That was a course which she was perfectly entitled to take.
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, in the interests of protection of the public and public confidence. I am satisfied that it would not be in the public interest for the ISO to expire on 17 December 2022. So far as concerns seriousness, the alleged regulatory concerns – arising out of a referral in January 2021 – relate to 2020. They include: failing to maintain boundaries with a service user; and failing to demonstrate the necessary knowledge, skill or judgment in communication, following management direction, engagement of service users, professional networks and progression of cases, identification of risk and producing assessments, active preparation for statutory meetings and undertaking of home visits, and being contactable during the lockdown period. The case against the Respondent is that by reason of misconduct and/or lack of competence or capability, her fitness to practise is impaired. These complaints have been assessed as relating to fundamental elements of social work practice and being wide-ranging, and indicating a pattern of repeated behaviour. The Respondent has engaged in the process, and has been present at various hearings, providing submissions and evidence and responding to questions. She has been recognised to have evidenced some insight and some further training.
3. The case was referred to Case Examiners on 16 December 2021 and referred by them on 18 March 2022. In July 2022 the case was transferred to SWE’s external legal provider to prepare the substantive case for a final hearing. Nine potential witnesses were identified and, to date, interviews have been carried out with six of them who have each received their draft statements which are now being finalised. Contact has been made with two further witnesses, but an escalation process may need to be followed should they fail to engage. Primary case notes have been requested and an escalation process is being followed to obtain those documents. Follow up interviews will be required with a few of the witnesses. Once their evidence is obtained, the case will be reviewed and a statement of case drafted for disclosure. It is hoped that SWE will be in a position to disclose its case in January 2023, with a hearing to be listed within three months thereafter. I accept that there is ongoing prejudice to the Respondent. But this is outweighed by the public protection and public confidence imperatives, convincingly identified by the review panel most recently on 5 October 2022. I agree with that panel that even a high level of supervision would not be sufficient to protect the public, while the issues in the case await a substantive hearing. I have been given in this case a detailed description of the steps that have been undertaken and the steps that are needed. I am satisfied that the case has been being appropriately progressed. I am also satisfied

that the timeframe of the extension is necessary and proportionate in the present case. I will therefore grant the application. There will be no order as to costs.

25.11.22