

## **First-tier Tribunal Care Standards**

### **The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008**

**2025-01434.ISO-W  
NCN: [2025] UKFTT 00508 (HESC)**

**Heard by video link  
on 02 May 2025**

**Before  
Tribunal Judge C Ashby  
Specialist Member D Rabbetts  
Specialist Member M Green**

**Between:**

**Social Care Wales**

**Applicant**

**-v-**

**Wayne Pontin**

**Respondent**

### **DECISION**

#### **The Application**

1. The Applicant applies to the Tribunal under s148 of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act") for the extension of an interim suspension order imposed on the Respondent, suspending his registration as a Residential Childcare Worker, which is due to expire on 12 May 2025.

#### **Attendance**

2. The Applicant was represented by Mr Delme Griffiths, Solicitor at Blake Morgan. Its sole witness was Ms Mari Parker, Fitness to Practise Senior Officer (Social Care Wales).
3. The Respondent did not attend the hearing.

#### **Preliminary issue**

4. We heard submissions from Mr Griffiths as to whether the hearing should proceed in the Respondent's absence. The Respondent had made clear in his correspondence with the Applicant that he did not intend to attend the hearing.

He had provided his position in writing, in an email to the Tribunal dated 08 April 2025.

5. We considered Rule 27 of the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 (as amended) (“the 2008 Rules”). We concluded that we would proceed in the Respondent’s absence for the following reasons:
  - (a) We were satisfied that the Respondent was aware of the hearing date and time;
  - (b) This was not a final hearing but a hearing to consider an extension of the interim order;
  - (c) The Respondent’s engagement with these proceedings has been patchy and it is alleged that this is due to his poor mental health;
  - (d) The interests of justice required consideration to be given to the application as a matter of urgency given that the current interim order was due to expire on 12 May 2025, and any delay in considering the application could increase the risk of danger to the public from the expiry of the interim order without an extension if that was considered appropriate.

## **Background**

6. The Respondent was registered with the Applicant as a Residential Childcare Worker on 05 October 2018. He was employed by Neath Port Talbot Council as a Residential Recovery and Intervention officer, and as a Night Supervisor, at Hillside Secure Centre.
7. On 06 September 2022 an alleged incident took place whereby the Respondent was alleged to have used inappropriate force towards a young person. Two further alleged incidents of inappropriate force towards the same young person are said to have taken place on 08 September 2022.
8. The Respondent was provisionally suspended from work on 12 September 2022, with a disciplinary investigation meeting being convened on 28 November 2022. The matter was referred to the Applicant by Neath Port Talbot Council on 12 January 2023, and on 25 January the case was allocated to the Fitness to Practise Coordinator.
9. On 25 July 2023 it was confirmed that the Respondent had been dismissed from his position following the conclusion of Hillside’s internal investigation. On 11 September 2023 the case was reallocated to a different Fitness to Practise Senior Officer, and a decision was made to apply for an Interim Suspension Order. This was granted by an Interim Orders Panel on 13 November 2023, for a period of 18 months. The interim suspension order has been further reviewed by an Interim Orders Review Panel twice, on 09 May 2024 and on 06 November 2024, and on both occasions, it was continued.
10. On 11 April 2024 the Disclosure and Barring Service confirmed that they would be taking no action against the Respondent.

11. On 13 March 2025 the case was reallocated again due to staff sickness absence, to Fitness to Practise Senior Officer, Ms Mari Parker. The Applicant's application to extend the Interim Suspension Order was made on 31 March 2025.

### **Legal Framework**

12. The Applicant is the regulator for the social care profession in Wales. Under section 68(1) of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act"). Its main objective in carrying out its functions is to protect, promote and maintain the safety and well-being of the public in Wales.
13. Under section 68(2) of the Act, in pursuing that objective, the Applicant is required to exercise its functions with a view to promoting and maintaining –
- (a) high standards in the provision of care and support services,
  - (b) high standards of conduct and practice among social care workers,
  - (c) high standards in the training of social care workers, and
  - (d) public confidence in social care workers.
14. Sections 143 to 149 of the Act deal with the imposition of an interim order by an Interim Orders Panel in relation to a registered person.
15. Under section 144(5) of the Act, an Interim Orders Panel may make an interim order only if it is satisfied that the order -
- (a) is necessary for the protection of the public,
  - (b) is otherwise in the public interest, or
  - (c) is in the interests of the registered person.
16. Under section 144(4) there are two types of interim order, namely:
- (a) an interim suspension order, which is an order suspending the registered person's registration;
  - (b) an interim conditional registration order, which is an order imposing conditions on the registered person's registration.
17. Under section 144(5), when an interim order is imposed it takes effect immediately and will have effect for the period specified by the Interim Orders Panel, which may not be more than 18 months.
18. Under Section 146 of the Act, an interim order must be reviewed by an Interim Orders Panel within six months of the date on which the interim order was imposed. If, following a review under section 146, an interim order remains in place, it must be further reviewed within six months of the date of the review.
19. The Applicant has issued guidance entitled 'Guidance on Indicative Disposals for the Fitness to Practise Panel and Interim Orders imposed by the Interim Orders Panel' (the Guidance') As the title indicates, the first part of this guidance relates to the imposition of sanctions by a Fitness to Practise Panel and is not relevant to this application. However, Section 6 of the Guidance relates to applications for interim orders and includes general principles to be taken into

account by an Interim Orders Panel. The Applicant has also published practice guidance for different categories of social care workers.

20. Under section 112(1) of the Act, the Applicant is required to prepare and publish a code of practice setting standards of conduct and practice expected of social care workers. The Applicant has prepared and published a Code of Professional Practice for Social Care ('the Code').
21. Under section 148 of the Act, SCW may apply to the Tribunal for an interim order to be extended or further extended.
22. On an application, the Tribunal may –
  - (a) Revoke the interim order,
  - (b) In the case of a conditional registration order, revoke or vary any condition,
  - (c) Extend, or further extend the order for up to 12 months, for
  - (d) Make no change to the order or to the period for which the order is to have effect.

## **Evidence**

23. We took into account all of the evidence that was present in the bundle and at the hearing. We have summarised the oral evidence insofar as it relates to the relevant issue before the Tribunal. What is set out below is not a reflection of everything that was said or presented at the hearing.
24. We heard oral evidence from Ms Parker, Fitness to Practise Senior Officer for the Applicant, who confirmed the contents of her witness statement signed on 22 April 2025 to be true, with one correction, this being that in paragraph 31 of the statement, the date of 08 August 2022 was given in respect of 5 CCTV clips. This was an error. The correct date is 08 September 2022.
25. Ms Parker explained to us the progress she has made in the investigation of the alleged incidents. Two further witness statements have now been signed and finalised. Two potential witnesses have still not been contacted, despite efforts having been made. Importantly, on 29 April 2025 she had been able to have a productive conversation via MS Teams with the Respondent.
26. Ms Parker's evidence as to the delay in the investigation being concluded was that this relates primarily to the long term absence of her colleague through sickness. The case was assigned to Ms Parker on 13 March 2025.
27. She was hopeful that it would take a further 3 months to finalise obtaining witness evidence and preparing a bundle, at which point a decision would be made about disposal. Some further time would be taken up with internal processes, the creation of new risk assessments, and allowing for response times and timetabling for a hearing. She expressed confidence that if a 9 month extension was granted, the entire process was capable of being concluded in that timeframe, including any final Fitness to Practise Hearing.
28. Ms Parker told us that she had provided information to the Respondent about

the support that can be available to him regarding his health while these proceedings are ongoing, and had had a conversation with him about different disposal options. She had suggested and the Respondent is open to, the possibility of removal by agreement on health grounds. She is seeking his permission to obtain his medical records in order that this may be explored as a possibility.

29. We noted the evidence provided by the Respondent which drew attention to the negative impact that his interim suspension has had on his mental health, and to his current physical health difficulties. He informs the Tribunal that he has no intention of working with children or under Social Care Wales again, and states that the continuance of the interim suspension order is detrimental to his mental health.

### **The Tribunal's conclusions with reasons**

30. We place on record our thanks to Mr Griffiths and Ms Parker for their assistance at the hearing.
31. The question for the Tribunal is whether at the date of its decision, it reasonably believes that the Interim order should be extended. This means that it has to consider the same criteria as that considered for the original order, namely, whether it is necessary for the protection of the public, is otherwise in the public interest, or is in the interests of the registered person.
32. The Tribunal's role in the appeal is not to make any findings of fact but to consider whether there is sufficiently strong evidence to support the decision to extend the Interim Suspension Order.
33. The Tribunal is considering the appeal on the date of the hearing and makes its decision on the basis of all of the evidence available to it, including any oral evidence at the hearing and is not restricted to matters available to the Interim Orders Panel.
34. We found Ms Parker's evidence to be helpful, clear and credible. She explained clearly the steps she is taking to conclude the investigation in a timely manner, and she was sensitive to the significant burden the ongoing interim order places on Mr Pontin, not from a financial perspective but from the perspective of his mental health.
35. We were particularly pleased to hear of the efforts she has made to involve Mr Pontin in the process, to reassure him and to offer what assistance she can, including in giving consideration to alternative means of disposing of the matter.
36. We concluded that we were satisfied that an interim order was necessary for the protection of the public and in our view otherwise in the public interest.
37. We acknowledge that these are only allegations at this stage. However, the allegations are of a potentially serious nature, involving a vulnerable young person. The allegations concern the inappropriate use of physical intervention on more than two occasions. Allegations of this nature can have a bearing on whether it is safe for the Respondent to have access to other vulnerable

children and young people. We agreed that there would be a high degree of public concern if the Respondent was free to practise while subject to these allegations. The risk is in our analysis heightened by the fact that the Respondent does not dispute what is said to have occurred, but disputes that there was anything wrong in the actions he took.

38. In considering the reasons why the case has not been concluded as yet, we note that this is outside of the control of the current Fitness to Practise Senior Officer assigned and appears to relate primarily to matters beyond anybody's control, this being, long-term staff absence due to sickness.

39. We considered particularly carefully the effect upon the Respondent of extending the Interim order. He has been quite clear in his written position that these proceedings are having a particularly detrimental effect upon his health and wellbeing. We have every sympathy for that. We are glad that he is obtaining help and assistance, and we are reassured that Ms Parker is now doing everything she can to expedite the conclusion of the proceedings.

40. We noted that Mr Pontin states he does not intend to work in the sector again. We have only his word for this. Weighing up this and the concerns about his mental health against the issues of public protection that clearly arise, we considered that it was both necessary and proportionate to extend the Interim order as requested by the Applicant, to 12 February 2026.

## **DECISION**

The application to extend the order made on 13 November 2023 and which is due to expire on 12 May 2025 is granted.

The interim order shall be extended until 12 February 2026.

**Judge C Ashby**

**First-tier Tribunal (Health Education and Social Care)**

**Date Issued: 07 May 2025**