

Care Standards

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

NCN: [2025] UKFTT 00970 (HESC)

2025-01471.ISO-W

Hearing held on video on 7 August 2025

Before

Tribunal Judge O'Neill
Specialist Member Tynan
Specialist Member Billington

Social Care Wales

Applicant

-v-

Michelle Marie Drane

Respondent

DECISION

1. THE APPEAL

- 1.1 This is an application by Social Care Wales ("**SCW**") for an extension of an interim suspension order that was originally made on 28 February 2023 ("**the Order**") against Ms Michelle Drane ("**the Respondent**").

2. ATTENDANCE

- 2.1 The hearing of the application was conducted remotely on 7 August 2025.
- 2.2 SCW was represented by Mrs Candice Rogers (solicitor). SCW's only witness was Mr Ieuan Parry, Fitness to Practise Senior Officer of SCW.
- 2.3 The Respondent did not attend.

3. EVIDENCE

- 3.1 We carefully considered all the written evidence submitted to the Tribunal in advance and the oral evidence given to us at the hearing even if we do not mention it. We used the hearing to amplify and update parts of the written evidence and only record such of the oral evidence as is necessary to explain our decision.

The Bundles

- 3.2 We were provided with a bundle which was paginated in sections from A to J. Including index pages and cover sheets the bundle had 248 electronic pages. In this decision, references to documents will to the pagination numbers unless stated otherwise.

4. PROCEDURAL MATTERS

The Respondent's Non-Attendance

- 4.1 Rule 27 of The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 ("**the Rules**") provides:

"If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—

- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and*
- (b) considers that it is in the interests of justice to proceed with the hearing".*

- 4.2 We were able to confirm that the Respondent had been notified of the hearing. The Respondent was sent the notice of hearing on 30 July 2025.
- 4.3 We decided that it was in the interests of justice to proceed with the hearing for the following reasons:
- (a) The Respondent had not engaged with the application throughout. The Respondent did not respond to the application and did not serve any witness evidence.
 - (b) The Respondent had made no application for an adjournment of the hearing.
 - (c) The Order is due to expire on 27 August 2025 and so this application must be heard and determined before this date.
- 4.4 We therefore decided to proceed in the Respondent's absence.

5. BACKGROUND AND KEY CHRONOLOGY

- 5.1 SCW is the regulator for the social care profession in Wales. S68(1) of the of the Regulation and Inspection of Social Care (Wales) Act 2016 (“**the 2016 Act**”) states that SCW’s main objective in carrying out its functions is to protect, promote and maintain the safety and wellbeing of the public in Wales.
- 5.2 The Respondent was registered with SCW on 1 March 2021. she was subsequently registered as a Domiciliary Care Worker on 20 April 2021.
- 5.3 On 20 January 2023 the Respondent was arrested for fraud by false representation. The arrest was in relation to an allegation that the Respondent had financially abused a service user by using their bank card for personal use during her time working at IOS Health and Social Care. The Respondent was given bail conditions to not contact any witnesses directly or indirectly and to not attend any IOS Health and Social Care Homes.
- 5.4 An Interim Orders Panel (“**IOP**”) of SCW met on 28 February 2023 and made the Order for a period of 18 months (to conclude on 27 August 2024). The IOP determined that the Order was both necessary and proportionate on the grounds that the order was:
 - (a) necessary for the protection of the public; and
 - (b) otherwise in the public interest.
- 5.5 The Order was reviewed and reconfirmed by SCW IOPs on 28 February 2023, 21 August 2023, and 19 February 2024. These IOPs found that the Order should continue on the same basis.
- 5.6 On 30 July 2024, the First Tier Tribunal, Care Standards decided to extend the Order until 27 August 2025 on grounds of protection of the public and public interest.
- 5.7 The order was subsequently reviewed and confirmed by SCW IOPs on 21 October 2024 and 17 April 2025. These IOPs found that the order should continue on the same basis.
- 5.8 On 07 July 2025, South Wales Police confirmed that the Respondent had been charged with three offences of fraud by abuse of position and the Respondent was due to appear at the Magistrates Court on 29 July 2025.
- 5.9 SCW has now issued this application for an extension of the Order for a period of 12 months until 27 August 2026 to allow time for the criminal proceedings to conclude, after which SCW will make any decision regarding the Respondent’s fitness to practice as appropriate.

6. LEGAL FRAMEWORK

The Legislative Provisions

- 6.1 The relevant legislative provisions are as follows.
- 6.2 Sections 143 to 149 of the 2016 Act deal with the imposition of an interim order.
- 6.3 Under section 144(4) of the 2016 Act 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.
- 6.4 Section 144(5) of the 2016 Act provides that an IOP 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.
- 6.5 Under section 144(6) of the 2016 Act, where an interim order is made, it takes effect immediately and may not have effect for a period of more than 18 months (unless it is extended).
- 6.6 Under Section 146 of the 2016 Act, an interim order must be reviewed by an IOP 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.
- 6.7 Under section 148(1) of the 2016 Act, SCW may apply to the Tribunal for an interim order to be extended or further extended.
- 6.8 By section 146(2) of the 2016 Act, 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, the interim suspension order with an interim conditional registration order;
 - (c) extend, or further extend, the order for up to 12 months;
 - (d) make no change to the order or to the period for which the order is to have effect.

The Burden and Standard of Proof

- 6.9 In these proceedings the burden is on SCW, as the applicant, to demonstrate that the conditions in Section 144(5) of the 2016 Act have been met.
- 6.10 The standard of proof is the same as in civil proceedings, it is for SCW to discharge on the balance of probabilities.
- 6.11 The Tribunal must make its decision based on all the evidence available to it as at the date of the hearing.

The Issues

- 6.12 The Tribunal must consider whether the Order should be extended beyond 27 August 2025.
- 6.13 The Tribunal may:
- (a) extend the interim order until 27 August 2026, as applied for;
 - (b) extend the interim order, but for a shorter period;
 - (c) make no change to the interim order; or
 - (d) revoke the interim order.

7. ANALYSIS

- 7.1 In GMC v Hiew [2007] EWCA Civ 369, the Court of Appeal gave guidance as to the principles to be applied when considering an application for extension of an interim order. We remind ourselves as to those principles. We specifically remind ourselves that:
- (a) The criteria to be applied are the same as for the original interim order namely, the protection of the public, the public interest and the Respondent's own interests. The Tribunal can consider such matters as the gravity of the allegation, the nature of the evidence, the seriousness of the risk of harm, the reasons why the case has not been concluded and the prejudice to the Respondent if an interim order is continued.
 - (b) The Panel must reach its decision as to whether to grant an extension based on the evidence, which should be examined with care.
 - (c) It is not the function of the Panel to make findings of primary fact, nor is there any threshold test to be satisfied before the Tribunal can exercise its power of extension.
 - (d) The evidence on the application will include evidence as to the opinion of SCW and the IOP as to the need for an interim order. Appropriate weight will be given to that. All that is required is that the Tribunal should give that opinion such weight as, in all the circumstances of the case, it thinks fit.

- (e) The function of the Tribunal is to ascertain whether the allegations against the Respondent, rather than their truth or falsity, justify the prolongation of the extension.
- 7.2 Having regard to the principles in *Hiew* and the evidence and submissions that we have read and heard in this case, our decision is to extend the interim order until 27 August 2026. Our reasons are set out below.
- 7.3 The original decision of the IOP (IP5, page 57) was that an interim order was necessary for the protection of the public and is otherwise in the public interest. Its reasons, in summary, were:
 - (a) The allegations against the Respondent are ones of dishonesty. Dishonesty in a professional context is a serious allegation. The allegations, if proven, would likely call into question the Respondent's suitability to work in the social care profession.
 - (b) The allegations are suggestive of a pattern of behaviour and there therefore exists a risk of repetition on the part of the Respondent.
 - (c) If conduct such as that which is alleged was to be repeated, the risk of harm, would be significant.
 - (d) Public confidence in the integrity of the regulation of the social care profession would be called into question if the Respondent were not subjected to an interim order.
 - (e) There was no evidence before the IOP to suggest that the Respondent would be prejudiced financially by the imposition of an interim order. But in any event, the need to protect the public, and the wider public interest, outweighs any potential the hardship that may have been felt by the Respondent.
 - (f) An Interim Conditional Registration Order would not be appropriate because no conditions existed that that would appropriately safeguard against the identified risks.
- 7.4 It is submitted that the decision of the IOP to impose the original Order on 28 February 2023 was justified and well-reasoned. We agree. The criminal allegations against the Respondent are serious. It is alleged that the Respondent dishonestly used a vulnerable service user's bank card for her own personal use. We accept that if proven, the allegations would likely call into question the Respondent's suitability to work in the social care profession.
- 7.5 In addition, it is alleged that the Respondent failed to disclose to an employer a prior conviction from 2018. If proven, this allegation is likely to amount to a further act of dishonesty.
- 7.6 There are therefore multiple allegations of dishonesty against the Respondent. We agree this suggests a pattern of behaviour and this presents a risk of

repetition on the part of the Respondent. If the Respondent was to repeat any of the conduct such as that which is alleged, the risk of harm, would be significant.

- 7.7 We have been shown no evidence to suggest that the risk of harm has reduced in this matter. The criminal investigation has progressed and on 7 July 2025, SCW was informed that the Respondent had been charged with three counts of fraud by abuse of position. We were told by Ms Rogers that the Respondent was due to attend her first court appearance on 29 July 2025 but failed to attend; a warrant has been issued for her arrest. It is of note that the Respondent has failed to engage in these proceedings and appear to be failing to engage with the criminal proceedings. The Respondent's lack of engagement is not suggestive of a reduction in risk.
- 7.8 At paragraph 35 of Mr Parry's statement (page 36), Mr Parry explains that SCW's investigation is on hold "*pending the outcome of the police investigation, so as not to prejudice it*". We accept that if SCW was to undertake its investigation before the criminal proceedings have concluded then there is a risk that this might prejudice either or both sides in the criminal proceedings.
- 7.9 We considered whether a further extension of the Order may cause any prejudice or hardship to the Respondent. We acknowledged that a further extension of the Order may have financial implications for the Respondent and so may cause her prejudice or hardship. But as the Respondent had not engaged with these proceedings there was no evidence before us to persuade us that the risk of prejudice or hardship to the Respondent was material. In our judgment the risk of harm to the public by no further extending the Order far outweighed any potential risk of prejudice or hardship to the Respondent.

8. DECISION

- 8.1 The application to extend the Order to 27 August 2026 is granted.

Judge O'Neill

Tribunal Judge

Date Issued: 12 August 2025