

IN THE CARE TRIBUNAL

JH

-v-

DEPARTMENT OF HEALTH, SOCIAL SERVICES AND PUBLIC SAFETY

1. This is an appeal against the imposition of an Interim Suspension Order with subsequent renewals. Following a preliminary hearing held on 7th December 2010 I gave directions regarding the case which was due for hearing on 21st March 2011.
2. On the 7th January 2011 the Interim Suspension Order, the subject of the appeal, was revoked by a Professional Conduct Committee.
3. In light of the provisions of S.15 of the Health and Personal Social Services Act (N.I.) 2001 regarding appeals to the Care Tribunal I invited representations from the parties regarding the status of the appeal. I received written representations and I also heard oral representations on 23rd Feb 2011.
4. I have considered the representations made by the parties and also the powers of the Care Tribunal under S.15 of the 2001 Act. It appears to me that the provisions of S.15 (3) and S.15 (4) of the Act do not empower the Care Tribunal to rule on a decision which is no longer in effect. S.15 (3) empowers the Care Tribunal to confirm the decision or direct that it shall not have effect. S.15 (4) specifically refers to any condition **for the time being in force**. In the present case the Interim Suspension Order has been revoked and when the Care Tribunal is scheduled to convene in March 2011 it is difficult to envisage circumstances in which the Care Tribunal could, at that stage, confirm the decision (the Interim Suspension order) or direct that it shall not have effect.
5. In Great Britain there is a process for expediting similar appeals against suspension orders where it is important to have a speedy resolution of issues between the parties. However Rule 8 of the

Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 applies and a Tribunal must strike out the whole or a part of the proceedings if the Tribunal does not have jurisdiction in relation to the proceedings or that part of them. If a suspension had run its course and had not been renewed, by the time it reached appeal hearing stage, there would be no jurisdiction to conduct a hearing thereafter and the appeal would be struck out under Rule 8.

6. Until a procedure is put in place in this jurisdiction similar to that in Great Britain which provides for the expeditious disposal of these types of appeals, the situation in this present appeal is likely to occur again. I am of the view that appellants in this jurisdiction should also have the benefit of prompt recourse to an independent appeal tribunal when they seek to challenge the imposition of suspension orders, given the impact that such an order is likely to have and the present length of time required to reach an appeal hearing under the current process. It is important to have provision for dealing with these types of appeals as soon as is possible.
7. However, given the current position, I have determined that although the present appeal was by no means misconceived when lodged, its current status or continuance is now outside the jurisdiction of the Care Tribunal and in the exercise of the power inherent in Schedule 6 paragraph 4(1) (b) of the Care Tribunal Regulations (N.I.) 2005, as amended, I strike out the appeal.

ORDER ACCORDINGLY.

HARRY BLACK

CHAIRMAN: 25th Feb: 2011.

Date decision recorded in register and issued to parties: 25th February 2011