

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

THE NURSING & MIDWIFERY COUNCIL

v

ND

**STEPHENS J**

[1] This is an application by the Nursing and Midwifery Council to extend an interim order restricting the ability of a nurse to carry on her profession. I will anonymise the identity of the nurse as ND, given that the allegations have not as yet been determined.

[2] The case raises a recurring problem in that matters of concern are reported to both the Nursing and Midwifery Council ("the Council") and also to the PSNI at the same time. The Council cannot carry out its investigations until after the criminal investigation has been concluded. That may involve a decision by the Public Prosecution Service not to prosecute or it may involve a decision to prosecute, in which case the Council's investigations cannot even begin until after the prosecution has ended. This has resulted in a number of cases in delay with an adverse effect on the life of an individual who is suspected of a criminal offence, being disrupted over an excessive period of time. This case is an illustration of that effect.

[3] The allegation made against ND is a serious allegation. It is suggested that she imposed inappropriate restraints on an elderly patient in order to cut her fingernails at a time when the patient was capable of making up her own mind as to whether or not she wanted to have her fingernails cut.

[4] The inappropriate restraint was that ND allegedly sat on the knee of the elderly patient and forced the elderly patient to have her fingernails cut. If that is

correct then it would be a serious disregard for the dignity of an individual and would reflect a bullying attitude towards a vulnerable individual.

[5] ND denies that this ever took place and indeed she says that the patient consented to having her fingernails cut. In any event, on 12 December 2014, or shortly thereafter, the matter was reported to both the Nursing and Midwifery Council and to the PSNI. One-and-a-half years later, on 6 May 2016, a decision was made by the Public Prosecution Service not to prosecute.

[6] It appears to me that the investigation was a simple investigation involving interviewing some four witnesses and ND. For that to take 1 ½ years and thereafter for ND to face a subsequent investigation by the Council means that her life has been on hold for a substantial period of time.

[7] This is to be seen in the context that, subject to one or two matters which I need not go into, ND has an extensive work record carrying out her duties apparently to the best of her abilities. I have expressed concerns in the past about this, I express them again. I am going to ask for a transcript of this short ruling to be prepared so that it can be published.

[8] I note that there is to be meeting between the Council, the PPS and the PSNI. I would encourage that a suitable system is put in place which recognises that these cases require expedition because after the criminal investigation has taken place, there necessarily must be an investigation by the Council. So, inevitably, the process is going to take longer in relation to a person accused of a criminal offence in such circumstances than it would otherwise do if a person was not a professional such as the nurse in this case.

[9] These cases should be expedited. There should be a proper means of communication between the Council and both the PSNI and the PPS. In simple cases there should be a degree of expedition to arrive at a decision as to whether to prosecute or not.

[10] I make the order sought by the Council to extend the interim order until 5 pm on 27 January 2017.

[11] I hope that some progress is made to make sure that the prosecuting authorities, who have a difficult job in other areas, recognise that these cases need to be expedited