

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

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

**Neutral Citation Number: [2024] UKFTT 00452 (HESC)**

**[2023] 5125.EA**

**Hearing held on 29 May 2024 on CVP video**

## **BEFORE**

**Ms Shelley Brownlee (Tribunal Judge)  
Mrs Linda Owen (Specialist Member)  
Miss Rachael Smith (Specialist Member)**

## **BETWEEN:**

**(1) Competent Home Care Limited  
(2) Sylwia Sobieszuk**

**Appellants**

**-v-**

**Care Quality Commission**

**Respondent**

## **DECISION**

### **The appeal**

1. This is Competent Home Care Limited and Mrs Sylwia Sobieszuk's ('the Appellant') appeal against a decision of the Care Quality Commission ('CQC' and 'Respondent') to refuse the registration of Competent Home Care Limited as a service provider for the regulated activity of 'personal care' and the decision to refuse Mrs Sylwia Sobieszuk's registration as the registered manager, providing the regulated activity of 'personal care' from the location of Competent Home Care Ltd, Unit 1F, Morelands Trading Estate, Gloucester, Gloucestershire GL1 5RZ. The decisions were made pursuant to section 28(3) of the Health and Social Care Act 2008.
2. The appeal is brought by Mrs Sobieszuk, in effect acting as the representative for Competent Home Care Limited and the appellant in person in respect of her own appeal against the decision to refuse registration as registered manager.
3. On 25 August 2023, the Respondent issued two notices of decision in which it notified the Appellant of its decision to refuse registration.

4. On 20 September 2023, the Appellant sent her appeal applications to the Care Standards Tribunal, pursuant to section 32 of the Health and Social Care Act 2008 ('the Act').
5. By way of an order dated 1 December 2023, Tribunal Judge Khan consolidated the two appeals, to be heard together, given the linked nature of the two decisions made by the Respondent.
6. In advance of the hearing, the Tribunal had read the digital hearing bundle (running to 468 digital pages) and a skeleton argument from the Respondent.

### **Attendance**

7. Mrs Sobieszuk attended the hearing, representing herself. Miss Jade Bucklow, counsel, attended, representing the CQC, with support from Mr Toby Buxton of CQC Legal Services.
8. Mrs Katarzyna Krzyszkowska and Miss Karolina Krzyszkowska attended as witnesses for the Appellants. Miss Rebekah Cordy, registration inspector, and Miss Louise Drew, registration manager, attended, as witnesses for the Respondent.
9. Two observers attended from the Respondent, namely Ms Tracy Sibley, deputy director of registration at the CQC and Ms Corey Smith from CQC Legal Services.

### **Withdrawal application**

10. At the beginning of the hearing, the Tribunal explored Mrs Sobieszuk's appeals with her, conscious that Mrs Sobieszuk did not have legal representation in place and had not met with the CQC on a face-to-face basis before the hearing. The Tribunal, exercising its inquisitory role, took the view that it was important for the parties to meet, without the attendance of the Tribunal panel. It was important for Mrs Sobieszuk to understand the options open to her in relation to any application to register with the CQC.
11. After some time, the parties were able to confirm with the Tribunal panel that Mrs Sobieszuk had decided to withdraw the appeal, in order to take time to focus on the areas of concern raised by Miss Cordy and to make a new application for registration as a service provider and registered manager. Mrs Sobieszuk understood that with any new application for registration, if it is refused, she will have a new statutory right of appeal to the Care Standards Tribunal.
12. After the hearing had concluded, the Respondent sent the Tribunal a proposed consent order, signed by both parties, in which the parties have agreed a number of next steps. The full agreement is appended to this order, as the parties have agreed a number of next steps which this Tribunal does not have the power to order.

13. The Tribunal considered the proposed order and decided to allow Mrs Sobieszuk to withdraw the two, consolidated appeals. The Tribunal concluded that Mrs Sobieszuk understands the significance of withdrawing the appeals and the consequences. The Tribunal applied the overriding objective, considering in particular the need to deal with cases in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and resources of the parties. The Tribunal decided it was proportionate, just and fair to allow Mrs Sobieszuk to withdraw the appeals.

### **Order**

By consent and in accordance with Rule 17 of The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008, it is ordered that:

1. The appeal is withdrawn.
2. There shall be no order for costs.
3. This is the final order in the appeal and the proceedings are concluded.
4. Mrs Sobieszuk has 28 days from the date of notification of withdrawal to apply to have the appeals reinstated. Any application must be made in writing.

**Judge S Brownlee**

**Care Standards & Primary Health Lists Tribunal  
First-tier Tribunal (Health, Education and Social Care)**

**Date issued: 03 June 2024**