

Care Standards

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

NCN: [2021] UKFTT 464 (HESC)

CR

Appellant

v

Ofsted

Respondent

[2020] 4156.EY (VKinly)

Before

Mr Laurence Bennett (Tribunal Judge)

Mrs Sallie Prewett

Mrs Josephine Heggie

**Dates of hearing: 2-6 August, 9 August, 11-15 October, 3-4 November
and 22 November 2021**

Appeal

1. CR appeals under Section 74 of the Childcare Act 2006 (the Act) against the cancellation of his registration as a childminder on the Early Years Register, the Compulsory Part of the General Childcare Register and the voluntary Part of the General Childcare Register by Ofsted under Section 68 of the Act.
2. The Tribunal Procedure Rules 2008 (as amended) provides the definition of 'hearing' in rule 1 as follows: "hearing" means an oral hearing and includes a hearing conducted in whole or in part by video link, telephone or other means of instantaneous two way electronic communication'. The appeal was conducted by video because the Tribunal concluded that this was a case that was appropriate for a video hearing. The parties and their representatives accepted the platform for conducting the hearing.

Attendance

3. CR attended the hearing.

4. Mr Simon White, Solicitor represented Ofsted. Witnesses attending the hearing are noted below.

Restricted reporting order

5. At the commencement of the hearing the Tribunal ordered that there shall be a restricted reporting order under Rule 41b of the Tribunal Procedure (First-Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 prohibiting the publication (including by electronic means) in any written publication available to the public or inclusion in any programme for reception in England and Wales of any matter likely to lead members of the public to identify any child or its family mentioned in the appeal. For that reason the Appellant, his family and users of his services are referred to by their initials.

Preliminary

6. In compliance with directions the Respondent submitted a Case Summary and Scott Schedule (C1-D1). This specified the allegations relied upon including failures to meet requirements contained within the Childcare Act 2006, The Childcare (General Childcare Register) Regulations 2008, The Childcare (Early Years Register) Regulations 2008, The Childcare (Early Years and General Childcare Registers)(Common Provisions) Regulations 2008, Statutory Framework for the Early Years Foundation Stage published 27 March 2012 and Statutory Framework for the Early Years Foundation Stage published 31 March 2014/effective September 2014 as may be relevant.
7. The hearing bundle was submitted in electronic form, PDF count 1,544 pages. It included copies of witness statements, exhibits, relevant appeal and case management and registration orders.
8. On Mr White's application the Tribunal admitted a witness statement of Ms Fatima Bokhari, Social Worker. CR does not agree with its contents but did not object.
9. There was insufficient time for the Tribunal to deliberate on the hearing dates. The Tribunal convened without the parties to determine the appeal.
10. Page references in this decision relate to the paginated hearing bundle.

The hearing

11. Oral evidence was given on affirmation.
12. The Respondent presented evidence first.

Mrs Kamaljit Jandu
13. Mrs Jandu is an Early Years Senior Officer with Ofsted. She confirmed the contents of her statement (H1) to which she exhibited notices, inspection reports and evidence. She noted that CR has been registered as a Childminder since 25 August 2008 and that Ofsted's records detailed concerns communicated to Ofsted including a reference to Social Services following allegations by his then partner.

She mentioned the history of attempts by an Ofsted Inspector to contact CR and the lack of response to actions required. She noted his communication with her about being “blocked” from taking Early Years courses and his belief that he had made himself available for inspections. She recorded that a case was closed on 7 May 2012 and an inspection in November 2012 resulting in a judgement of “satisfactory.” In 2016, concerns were again received by Ofsted and an independent school’s inspection undertaken by the Regulator had resulted in a judgement of “inadequate.”

14. On 4 and 10 August 2016 Mrs Jandu attended CR’s premises with Mr James Norman, an Ofsted Senior Officer. She recorded problems in gaining access to conduct an inspection because of difficulty in satisfying CR’s identity checks and objections raised by CR in respect of Local Authority actions and personnel. She found his behaviour and attitude concerning. On 6 September 2016 she visited to conduct a full inspection which resulted in a judgement of “not met with actions” because of limited knowledge of the Early Years Foundation Stage of Learning & Development Requirements. Mrs Jandu gave details of a joint inspection with 2 HMI’s, representatives from Sandwell and Birmingham Local Authorities accompanied by a Police Officer. The inspection resulted in a judgement of “met” for the Childminding Service although there were no minded children present so the impact could not be gauged.
 15. On 11 December 2018, Mrs Jandu undertook an unannounced visit. There were problems relating to confirmation of identity. She reported on a conversation entered into by CR about his other activities. During the visit, breaches of requirements were identified in respect of information and records and risk assessments. These were the subject of Notice of Action to improve.
 16. In response to CR’s questions, Mrs Jandu detailed her qualifications and professional background, her understanding of the need to produce identity and DBS certification and the decision process within Ofsted although she was not the relevant decision maker. She answered specific points about her observations during the December 2018 visit. She has little knowledge of CR’s food bank activities or his school. She stated she was not pre-instructed to make findings nor intimidated by CR. She did not consider that inspections were conducted in a hostile manner but said it was difficult to keep CR engaged, focussed and on-track. Mrs Jandu gave her understanding that inspectors should have access to the whole of registered premises.
- Mrs Trisha Turney
17. Mrs Turney is an Early Years Officer Regulatory Inspector. She confirmed the contents of her statement (H163). This states her role in respect of complaints and concerns. On 21 January 2020, Mrs Turney accompanied an Early Years Registration Inspector, Ms Johanna Holt in a registration inspection following an application for registration as a Childminder by MR, CR’s wife. She described her observations of a discussion between CR and a lady outside his front door and the subsequent conversation during which Ms Holt introduced herself and engaged with CR. Mrs Turney commented on the difference between registration and inspection visits with a need for access to the whole premises for the former and her understanding of what the whole premises would comprise. She noted comments made by CR about his refusal to allow access to parts of his premises and

allegations about Ofsted's institutional racism. She made observations about CR's attitude and cooperation.

18. In response to CR's questions Mrs Turney repeated her understanding of the premises which it was appropriate to inspect during a registration visit. She gave further details of what she observed during the conversation with the person on the door step. She did not feel frightened but felt CR was confrontational. She could not explain why the registration application had taken 3 years.

Mrs Anne Pritchett

19. Mrs Pritchett is an Early Years & Childcare Quality Support Officer with Sandwell Quality Early Years & Childcare Team. She confirmed the contents of her statement (H171). She described her qualifications, role and duties consisting of advice, guidance and support to Childcare Providers. This includes provision of information and support to prospective Childminders through the Ofsted application process and training and assistance in accessing funds. Mrs Pritchett's statement provides a chronology of contact with CR including in respect of training. She referred to emails relating to funding for 2 year olds, training courses and her involvement in an Ofsted Action Support Visits 22 November 2016 and 26 January 2017 with follow up emails and an Environment Support Visit 26 April 2017 with a follow up visit 15 June 2017. She commented that CR's engagement was sporadic and he did not appear to give full attention. Her conclusion is that she does not consider he has the capacity to meet requirements to establish a safe, suitable and stimulating childminding environment.

20. In response to CR's questions, Mrs Pritchett stated she was not aware that he had been blocked from training as might be the case if a Provider was suspended but generic support had been given over the years with details of training courses including emails and hard copies of the manual. She did not receive letters from CR but he communicated by phone and email. Similarly, Mrs Pritchett was not aware of blocked funding for CR. Her Service provides support to help Childminders fulfil the criteria for funding and check the environment to see if it could be improved to qualify. Explanations were given to CR when he did not meet these criteria. She denied that funding was withheld for any reason in connection with race or politics. She detailed her own qualifications and background. Her Service is for advice, guidance and support and is distinct from Ofsted Regulation and Registration. It is up to individual Childminders whether they wish to take advice from the Service. Her impression from visits was that CR did not want support. She gave further details of her walk round visit and acknowledged that although she could not recall CR complaining about her in 2018 when he was applying for funding for 2/3/4 year olds, he requested someone else was involved.

21. Mrs Pritchett has not received complaints regarding children but commented that most of the time CR has not been active. She explained the use of the word 'tick box' in her comments and her awareness of his other activities. Mrs Pritchett explained the first aid requirements of childminding, noting that CR's qualification was not for paediatric first aid.

Mrs Natasha Blackwood

22. Mrs Blackwood is a Social Worker and has been employed by Sandwell Children's Trust as a Senior Social Worker since February 2016. She was allocated CR's case on 12 August 2020 following a referral by Cheshire East Council (Cheshire)

stating that SR disclosed that she was sexually abused by her father CR around 10 years ago. She confirmed the contents of her statement (H330).

23. Mrs Blackwood recounted Sandwell's receipt of information from Cheshire regarding historic abuse, largely relating to SR. She was allocated the case and was required to see the family and gather information. She was not aware of SR's allegations before she became involved and was not able to share all information with the family as it was inappropriate to give too much detail. Her role was to ensure S (CR's son) who lived with him and MR was safe. She found CR's family was not willing to engage and she initiated a referral taking into account CR's position of trust. CR refused access to his premises on 19 August 2020. CR told her he wanted a joint investigation involving Social Services and Police. Mrs Blackwood said "As (he is) a professional" she would have expected him to engage with the Services. Reference was made to the LADO because of CR's involvement in childminding and running a school. She had concerns when he would not sign a Safety Plan for S. She was unaware of any campaign or conspiracy against CR although he stated views at the outset, people were jealous of him. He appeared to already know that allegations had been made by SR. CR admitted he had previously been arrested but that he was not given details of the reason. Overall, Mrs Blackwood found it difficult to get information from CR and had concerns about the accuracy and sequence of events. He deflected from the situation and did not want to engage or cooperate. There were concerns about the number of allegations from several sources and she advised MR to be super vigilant. She considers that to some degree MR is a protective factor for S.
24. Following 16 October 2020 and the unanimous decision that S was likely to suffer significant harm, a Child Protection Plan was put in place. It took into account allegations of physical chastisement, historic domestic violence and the allegations by SR. The case was then allocated to Mr Mainford Wambe, a Social Worker with Sandwell. Mrs Blackwood explained that a Child Protection Plan ends either by being escalated or ceasing.
25. In response to questions, Mrs Blackwood said that information about CR's political activities and electoral aspirations came from him. She explained the allocation process for cases and was not aware that he had had contact with SR. She gave reasons why she could not share details initially and further details of the duties and powers under Section 47 regarding S's safety. She said that CR would not give consent to get further information from Police. She described her concerns about CR's behaviour, his ability to stay on point when addressing questions. She said CR had mentioned money owed to him and she did not see the relevance.
- Miss Belinda Greasby
26. Miss Greasby is a qualified Teacher and Social Worker and the current LADO with Sandwell Children's Trust. She confirmed the contents of her statements (H366 +), described her role and meetings that took place. She reiterated the information that had come to her predecessor. From a review of the minutes she considered the Chair of the Position of Trust meeting had given an appropriate professional opinion, bearing in mind investigations were continuing. She mentioned the 3 strands of information from West Midlands and Cheshire and denied knowledge of financial incentive that would have led to the allegations. If that was the case, it would have been referred to the appropriate Authority. Miss Greasby's statement notes (paragraph 28) that all 4 of MW and CR's children made allegations of

physical and emotional abuse. As CR was self-employed with no Employer to refer to, she made a referral to DBS and the Teacher Regulator.

27. Miss Greasby emphasised that the LADO's role is not to investigate but to receive information, challenge the evidence and apply professional experience. In response to CR's further questions regarding paragraphs 43-48 of her statement, she reiterated that information had come from 4 different families and Child Protection Plans were put in place in 2006 and 2010. She was not aware of false or fraudulent activities by MW relating to CR's property or that information from agencies including Ofsted were biased against him. She pointed out that children from each of CR's relationships had a lived experience of domestic abuse and children from 3 relationships had been referred for Child Protection Plans. These were patterns of behaviour over 14 years. She requested that Mr Wambe collate an impact/forensic chronology in respect of all historic information.

Mrs Johanna Holt

28. Mrs Holt, Ofsted Early Years Inspector became involved in CR's case in 2019. She confirmed the contents of her statement (H381) and her role to obtain information to enable Mr Norman to make a decision regarding CR's registration. She endeavoured to complete a chronology which included evidence from toolkits of previous inspections. At the point of registration, she found that Social Services had not provided any information and CR had not disclosed information about all his children. She found this significant as some children had been placed on the Child Protection Register. She detailed how Ofsted has to rely on information provided and remarked on the possibility that CR might have been registered as an Assistant in MW's childminding since 2006. She reiterated CR had not informed Ofsted of child protection allegations in either 2006 or 2010. That information came from another registered Childminder. Ofsted became aware of the allegations, Police investigations, strategy meetings, Section 47 intervention and Family Court proceedings.
29. Mrs Holt considers that conditions on CR's registration could not be considered appropriate and pointed to his lack of notification of changes that require active notification. She explained requirements of a member of a household on an application for registration as a Childminder. MR had made the application but CR's form as a member of a household did not accurately respond to questions regarding Social Services involvement. Further, during these appeal proceedings CR disclosed he is registered disabled but this had not been notified. She described events on 21 January 2020 when she attended CR's premises and was refused entry. CR accused her of being a racist because she is white. She described his behaviour as aggressive, intimidating and confrontational and he wouldn't listen. Mrs Holt stated that although she has worked for Ofsted for some time, she has never come across anyone like him. She pointed to requirements for the whole of registered premises to be inspected CR did not allow this. She pointed to the need for Ofsted to monitor registered Childminders and expressed concern that should a child present with a difficulty whilst in CR's care, she was not confident he would take appropriate action because of his views.
30. Mrs Holt explained that she had not interviewed parents of any minded children because CR had not minded any. She did not contact past parents. She described what happened when she and Mr Norman called at CR's childminding premises and were asked by him for their credentials. She reiterated that concerns about

suitability of premises need to be satisfied on registration and a decision could not be made without viewing the whole premises. The purpose of the inspection was to look at the rooms and see how children could be accommodated and to identify risks. She detailed the conversation she had with a parent who happened to be at the door of the premises at the time they called. CR accused her of being a racist and Ofsted was institutionally racist. Mrs Holt said about CR at the hearing “at every event and turn you had not wanted to cooperate.” Mrs Holt said that she did not have much information about CR’s school nor had she heard recordings of calls from SR but considered they would have been taken into account by Police.

31. On re-examination, Mrs Holt said that minded children’s parents’ views were not important to cancellation, she had no reason to speak to other parents and accepted that none of the childminding parents had expressed concern. She described the process for Registrants to notify Ofsted regarding health concerns.

Mr Mainford Wambe

32. Mr Wambe confirmed the contents of his statement were accurate (H340). He took over the case of CR’s son S from Mrs Blackwood, at the time S was already the subject of a Child Protection Plan. Mr Wambe responded to a request from a Position of Trust meeting to compile a chronology as it is standard practice to help understand the case. He set out what he gleaned from the records, the process when a family moves locality and identified sources of information. He reiterated his involvement was in relation to safeguarding children. He visited CR’s home with his colleague and said CR cooperated well but maintained he was unfairly treated. Mr Wambe said the decision to put in place Child Protection Plan was based on all factors and that MR was a protective factor. His involvement ceased after the Child Protection Plan was downgraded to a Child in Need Plan. Sandwell did not have direct contact with SR but he listened to a voice message CR provided but it was difficult to come to a conclusion.

33. In response to CR’s questions, Mr Wambe said he was unaware of CR’s election activity. He explained the purpose of the chronology he prepared, he was not required to check matters raised by CR, such as fraud. He said that he felt the information from Police was sufficient and did not require further investigation. He did not have additional sources regarding allegations of rape, CR’s child or of an assault by Police but produced a report based on the information that was on the system.

Ms Fatima Bokhari

34. Ms Bokhari confirmed the contents of her statement were correct (LE). She had attended CR’s home 4 times accompanied by Mr Wambe. She became the main Social Worker at the time the Child Protection Plan had been reduced to a Child in Need Plan. A Safety Plan was in place but this was ended before review because of withdrawal of consent rather than completion of action.

35. In response to CR’s questions, Ms Bokhari gave further details of a recent visit to CR’s home relating to the wearing of masks. She said she had no concerns about S and CR told her about his election aspirations and involvement of the Chief Constable in respect of his family. She was not given recordings that were passed to Mr Wambe but was aware that CR felt SR’s mother was trying to make allegations. She noted that many of the allegations were historic and could not have been connected with his position. She emphasised she told CR that they

were not there to investigate fraud or otherwise but there for safeguarding purposes.

Mr James Norman

36. Mr Norman was the decision maker in respect of CR's Child Minding registration. He confirmed the accuracy of his statement (H720). He explained his role as decision maker in respect of cancellations and prosecutions. He highlighted points of concern regarding CR, particularly that he was not allowing required access to Ofsted. He described what happened when he attended CR's premises with Mrs Jandu. They were asked for ID but for some reason the Ofsted telephone number did not answer. Mr Norman said the door was shut in their faces.
37. CR had made comments to Mr Norman that Ofsted was institutionally racist because it was sending white Inspectors. He related concerns that arose from the placing of conditions on CR's school registration. As a result of these concerns, Ofsted decided to consider suspension of CR's Childminding registration and subsequently based on findings in respect of the school registration and childminding inspections, cancellation because there was doubt that Ofsted could rely on CR in respect of safeguarding requirements to notify and CR's honesty and integrity.
38. Mr Norman said that decisions regarding a person's own children are different to those relating to safeguarding other children. Mr Norman noted CR's reaction to allegations is to say they are malicious or wrong or bring up allegations of fraud. When allowed on the premises, Inspectors were only allowed to see what CR said were childminding areas and not the school or other rooms. Mr Norman found that CR's answers at the time he was seeking to establish whether unlawful activities had been carried out during CR's suspension were deliberately designed to be unhelpful.
39. Mr Norman found that concerns were met in 3 out of 4 issues: repeated non-compliance, concerns arising from the school regulation and a history of safeguarding concerns evidenced by Social Services involvement over time. A further point has arisen in relation to disclosure of medical information and non-return of a Health Declaration Booklet, standard procedure for mental or physical health. Mr Norman was clear that CR is unsuitable to work as a Childminder. CR has extreme views about the Local Authority, Ofsted and the Coroner's Office such that it is highly unlikely he will work with them or cooperate if another allegation or safeguarding issue should arise. CR's attitude to race or racism would affect his attitude to reporting safeguarding issues.
40. Mr Norman has listened to voice recordings CR provided of conversations with SR which he believes encapsulates his concerns; firstly, the question of why recordings of contact with his daughter were made and secondly, SR is a troubled young person reaching out to her father but he shows no empathy but reflects the issues back to himself. The responses are all about him and his concerns regarding Police, fraud and money. This gives rise to the worries how CR might react to another child in his care.
41. Mr Norman pointed out that the LADO concluded CR had acted in a way that a child has been caused harm; the definition of harm includes impediment to development. CR's views about race, Agencies and other matters means he is not able to

promote British values and an appropriate world view to impressionable children. Further, Ofsted could not rely on him to cooperate with other agencies which he doesn't accept are legitimate and act appropriately, for example notifying safeguarding concerns.

42. In response to CR's questions, Mr Norman listed records that were available to Ofsted and further points about the visit when CR refused to allow them on to the premises and the nature of the ID provided. He confirmed there were no reports of any Minded children hurt nor complaints received from parents. Mr Norman acknowledged following Police investigations CR was not prosecuted. Following an adjournment, Mr Norman was able to point to a decision to refuse permission to appeal Tribunal findings relating to his independent school. Mr Norman confirmed that Ofsted does not have independent access to medical records and would require CR's consent. He found it difficult to see how any action short of cancellation could be appropriate because of concerns about CR's honesty and integrity illustrated by information CR completed on forms relating to his wife's application to register as a Childminder.
43. Mr Norman commented on aspects of CR's description of his medical difficulties including eyesight problems, blackouts, blurred vision, processing difficulties and mental health problems. These are matters highly likely to be relevant to the role of a Childminder. They have the potential to make a Childminder unsuitable because of impaired ability to safeguard children. Mr Norman suggested that death threats against CR would require notification to Ofsted, it is not that they would make him unsuitable but they might impact on the risk of harm to a child.

CR

44. CR said at the start of his evidence that institutional racism exists and made reference to the Slave Trade and the Stephen Lawrence inquiry. He pointed out there had been no complaints from students or parents relating to his activities as a Childminder or Headteacher. His reason for opening a secondary school was prompted by the number of black children who he considers have been failed by teachers and excluded. Parents wanted a black Childminder. He returned to his view that Ofsted has not employed black Inspectors in a senior role. CR said he was a HM Inspector himself later clarified as within the Meat Inspection sphere. He said that throughout his childminding he had not worked alone as a Teaching Assistant or others were with him.
45. CR accepts there was an issue about his own children making complaints after they had left his care. He commented on the lack of production of recordings of telephone calls with SR and a "false" application to Leeds Family Court by MW. There were facts not known to the LADO. The response to child abduction by MW led to him being beaten up in Police custody. He linked this to "The background of the Chief Constable racially abusing and annoyance of the Authorities who are institutionally racist." He described Sandwell as a black spot and its attempts to "eliminate a Black Headteacher and Childminder."
46. CR said no allegations have been found to be true and his semi-diagnosed stroke and undiagnosed memory loss have been used against him. He pointed out Sandwell has not had a Black Mayor although there have been local Asian politicians. He considers that the "plethora" of allegations arose during his political activities.

47. CR said he inspired his wife MR to apply for Childminding registration, “the phones were ringing off the hook for parents asking for a black Childminder”. He commented on black youth gang and drug involvement and his previous involvement in morning and after-school clubs, teaching children to read and write. As CR is near retirement he suggested MR might register as a Childminder. He filled out the forms with his wife and interpreted them as relating to his new family and not previous family circumstances. If that was incorrect, it was a mistake and not deliberate.
48. CR questioned whether Ofsted Inspectors are aware of the Equality Act 2010. He believes SR’s mother has “gaslighted” the child. CR said that his response to parents who asked how their children had improved was that “these things can only be done by fasting and prayer.” In that context he runs a registered political party and a religious organisation.
49. CR described accusations relating to masturbation and rape as frivolous. He has experience as a locum in over 300 schools and has achieved success with classes that couldn’t be controlled and in teaching children to read and write through empathy and kindness. He accused Ofsted Inspectors of taking kickbacks. He considers that Sandwell Local Authority was shocked at his property ownership and what he could afford and as part of their recriminations would not allow him to join training courses they offered.
50. CR said that MW had only made a report after she cleared his bank account although she wanted to stay at his property whilst he was there. He summarised evidence as being corrupt and reflecting historic racial injustice. He said as a Childminder he is a professional and it is important not to mix professional activities and domestic life. The Police said he had no case to answer and there was no foundation to allegations 10 years apart. He considers Sandwell has defrauded his school of £7,000,000. The question he was most asked was whether he was still in politics. He criticised Mr Norman attending his premises, grinning like a child without a mask. CR continually returned to comments about black children being at a disadvantage and abused. He made comments which appeared to relate to inspection and Tribunal findings about his school. Despite the absence of complaints from parents, he has not received income and considers that he has been harassed by Ofsted and Sandwell. He denied snatching Inspector’s badges.
51. CR described his difficulty reading lengthy documents stating that he cannot afford new glasses which require Reactolite lens. He questioned the qualifications of Ofsted Inspectors. He considers Ofsted does not recognise reason and that “bigots will be judged by the God he serves.” He said that some of those who attended to inspect his premises, have criminal records and that Ofsted has plagiarised his work although he did not provide detail.
52. CR referred to the time he resided in Sutton Coldfield which he said has a history of running Black people out of housing neighbourhoods. He believes that the Authorities wanted to run him, a Black man out of business and do not consider black people fit in. He felt Ofsted was arrogant asking for access to other areas of his property, particularly his bedroom and in questions about his political activities.

53. In response to Mr White's questions, CR gave details of his time in Leeds, and allegations relating to his time with his first wife DW with whom he had 2 children. He identified N's mother as AC. He is in contact with his children in Sutton Coldfield. He said he had 3 children with MW and that he understood that his sister in Sutton Coldfield had problems and allegations which resulted in a Section 47 intervention whilst he was in Cuba. On his return, he bought 3 adjacent properties in Sandwell taking the middle one for himself and the others for the mothers of his children. He recounted the names of his children with KH, MW and AC but earlier he expressed doubts whether all the children are his own although registered as such.
54. In further responses, CR related his experiences within the Black community and his motivation to care for black children. He compared the Regulatory Authorities to American racist organisations such as KKK and said they were bigoted and combined "in circles to ensure that black and disadvantaged people don't get the services." CR mentioned the lack of action by Police when he reported matters and the failure to investigate his allegations against MW. He believes information should have been shared at multi-agency meetings and not considered by individual services. He suggested Mrs Blackwood has a criminal record but did not give details and this was a factor in denying her access to his premises. He believes NR's Social Worker inspired his mother to make false allegations but Mr Wambe was not allowed to look into statements. This resulted in the only information Mr Wambe was allowed to put forward was information detrimental to CR. He repeatedly referred to the false allegations which led to his arrest.
55. CR said previously he "co-registered" as a Childminder so he could see what was going on. This followed the unexplained death of his child. He believes that Ofsted and Sandwell Social Services are connected and described them as being the same. When asked why he felt registering as a Childminder would help him understand what was going on, he did not give an understandable answer although he said in 2010 he applied to register the school and once he had it, he could proceed in politics to become Prime Minister. He understood from KH that MW was working for the Police. He drew parallels to a locally reported action against Sandwell in which he interprets they paid £300,000 to an individual to keep quiet. He believes he can uncover corruption and failures in education.
56. CR commented on a letter he had sent during this appeal hearing reporting Ofsted witnesses to the Police alleging perjury. He said this was because statements were made about things he hadn't done. He believes Mrs Pritchett was a main instigator of hatred against him, taking it upon herself to harass mothers of cared for children. He commented on the lack of due procedures and considers that the timing of events during an election was not a coincidence.
57. CR clarified that he had not been diagnosed with a psychiatric condition although he had memory loss which has improved. He said he was registered disabled after his injury in Police custody as was subject to dizzy spells. He said he receives Disability benefit and had attended a sleep lab but has not been diagnosed with PTSD. He questioned whether he had received the Health Declaration Booklet as it was not sent by post although he gets a lot of post and may have missed it. CR said he would only inform about a medical condition if he felt that it might affect his ability to undertake his responsibilities.

58. CR said if a child was run over by a bus, he would notify Ofsted otherwise, notification might impede his ability to deal with the underlying issues. If injury happened in his capacity of Childminder, he would go straight to the Police and other professional bodies, not just Ofsted. Similarly, if a complaint was made in writing he would forward it on. He said that if a child said that he had touched them, he would speak to the parents and he would tell them to contact the Police, accompanying them if they wanted him to. When asked about the organisations he would notify, he said Ofsted, Early Years Sandwell, GP and the Directors on his Board.
59. CR again referred to alleged non-disclosures stating that allegations against him were private, although Sandwell Early Years were well aware particularly in relation to NR as the Social Worker was involved at the time. SR was registered to him but subsequently after “altercations with the Chief Constable stayed with MW.” He was under the impression that Ofsted would know this from Sandwell Early Years. He said at the time he was asked for disclosure, he did not know about allegations made by NR or the reason for his own arrest. He said he would not comply with Sandwell’s Social Services Safety Plan until he knew where allegations had come from but he was not given that information. He clarified he did not really know Mrs Blackwood had a criminal record but might if he could have checked her credentials. He said he checks every person who comes to his property to see if they have a criminal record and surmised she had one because she would not go to the Police with the allegations. He repeated that her behaviour led to his view she had a criminal record.
60. CR considers matters in his private life do not affect his ability or suitability to act as a Childminder. He said that the law states if you make a serious allegation it needs to go to the Police. In this case it was investigated 10 years ago and if the allegation was withdrawn, you have to imply that it did not happen and it should not be considered. He explained he had only provided the end of a phone call with SR previous calls were often from taxi drivers when she had run from home. She used to ring him for Bible study. He believes the whole family is against him. He criticised MW’s care of SR.

The Law

61. The Childcare (Early Years Register) Regulations 2008 Schedule 1 set out the requirements for someone to be registered on the Early Years Register – this includes the requirements that the person to be registered is suitable (paragraph 1) and that the child minder will secure that the EYFS welfare requirements are complied with (paragraph 5).
62. The EYFS welfare requirements are contained in section 3 of the EYFS Statutory Framework. This is given statutory force by section 39 of the Act, and from 1 September 2012 the Early Years Foundation Stage (Welfare Requirements) Regulations 2012 and the Early Years Foundation Stage (Welfare Requirements) Order 2007. The net result is that compliance with section 3 of the Statutory Framework document is a requirement of registration on the Early Years Register.
63. Any allegation that an early years provider has:

Failed to meet the welfare requirements or failed to have regard to the guidance in Section 3 of the EYFS Statutory Framework may be taken into account by the Chief Inspector in the exercise of his functions under Part 3 of the Act.

64. The Child Care Act 2006 enable the Chief Inspector to take action, such as cancellation of registration, when a provider has failed to meet the various regulations which govern the General Childcare requirements of those Regulations including that children being cared for are kept safe from harm.
65. Throughout Ofsted's regulatory framework, harm and significant harm are defined by reference to section 31 of the Children Act 1989 under which harm is defined as ill treatment or impairment of physical or mental health or physical, intellectual, emotional, social or behavioural development, including impairment which may be suffered from seeing or hearing another person being ill-treated.
66. Section 68 in Part 3 of the Childcare Act 2006 provides that Ofsted may cancel in a number of circumstances. Those include by section 68(2)(a) that the prescribed requirements for registration have ceased, or will cease, to be satisfied, or (c) that the person has failed to comply with a requirement imposed on him by regulations under the relevant Chapter, or (d) in the case of a person registered under Chapter 2 [in the Early Years Register], that he has failed to comply with section 40(2)(a) (which are the requirements to secure the learning and development requirements and comply with the welfare requirements).
67. Ofsted therefore has discretion to cancel registration if it appears that the requirements are not met. Ofsted does not have to establish that a child minder has harmed a child. For a provider to remain registered, Ofsted has to be assured that the child minder is not behaving in a way that may harm a child and that the child minder is meeting the requirement that children being cared for are kept safe from harm.
68. On appeal, the Tribunal's role is to confirm the cancellation or direct that it shall cease to have effect (section 74(4)).
69. The legal burden remains vested with the Respondent to prove, on a balance of probability, all those facts and matters it relies upon to justify cancellation as at the date of this appeal hearing.
70. We have to be satisfied that the decision to cancel registration is a proportionate response by the Respondent to the matters proved. The process of cancellation of the Appellant's registration as a child minder not only engages Article 6, it constitutes an interference with his Article 8 right to privacy and family life. Any interference with that right must be both in accordance with the law and necessary.
71. Hence the decision making process leading to measures of interference with the Appellant's Article 8 rights runs alongside Article 6 and must be fair. Articles 6 and 8 impose positive obligations of disclosure on the Respondent. The investigative decision making process as well as the trial process must be fair. The Respondent has a clear duty to ensure a transparently fair procedure at all stages.
72. Schedule 2, Part 1 of the Childcare (Early Years Register) Regulations 2008 sets out the prescribed requirements for registration. This requires inter alia that the applicant is suitable to provide early years provision. Section 68(2) of the 2006 Act

states that Ofsted may cancel a person's registration if it appears that these requirements cannot be satisfied.

73. Section 74(1) of the 2006 Act provides a right to appeal to this Tribunal. The legal burden remains vested in Ofsted, which must establish the facts upon which it relies to support cancellation on the balance of probabilities. It must also demonstrate that the decision to cancel the Appellant's registration is proportionate and necessary. We must make our decision on the basis of all the evidence available to us at the date of the hearing and we are not restricted to the matters available to Ofsted when the cancellation decision was taken. The powers of the Tribunal can be found in section 74(4) of the 2006 Act. Essentially the Tribunal may either confirm Ofsted's decision to cancel or direct that it shall not have effect.

Submissions

Ofsted

74. Mr White's closing submissions referred to his skeleton argument and Scott Schedule. He pointed to the relevant law and said that in this case some allegations justify cancellation on their own. Often decisions rely upon a range of allegations. He submitted that CR has not addressed in his written or oral evidence issues leading to the cancellation. He has his own narrative, largely about racial and political discrimination and tries to fit everything within that. He suggests there is a conspiracy against him and if not within that narrative, does not comment. This includes ex-partners and Agencies conspiring together, cash payments and backhanders. He has theories about the involvement of high ranking Police Officers, Ofsted, Sandwell, the Coroner and ex-partners expressed in terms of institutional racism and cleansing black Childminders from the industry. He has not provided evidence nor called witness evidence and this verges on beliefs bordering on the delusional.
75. Mr White contrasted CR's assertions with the evidence provided by Ofsted. CR has questioned whether Ofsted witnesses are motivated by racial discrimination. Mr White pointed to the evidence of difficulties Inspectors had in getting CR to focus on the issues, not his own narrative unrooted in reality.
76. Mr White submitted that CR did not disclose his Social Services history on registration. This has been partially discovered but not completely until the cancellation action. Recently, he failed to report appropriately in connection with his wife's application. He queried whether this was a misunderstanding but it highlighted CR's unsuitability, obstruction and denying reality. Mr White gave other examples such as the refusal to admit Mrs Jandu and Mr Norman, blocking inspection of the whole premises and allegations of criminality against Mrs Blackwood. He submitted CR puts things forward without support until he gets to a point when he admits he does not know. Similarly, CR mentioned he was blocked from courses by Sandwell but the evidence does not support it.
77. Mr White submitted CR's attitude was shown at the hearing. He was argumentative and did not answer questions clearly. For example, he was asked what children had been on the premises since suspension; his answer was deliberately obstructive. He queried whether CR could be relied upon to report a disclosure made by a child as he has said that he would bring to bear his own experience and may not detect a child protection concern.

78. Mr White stated in conclusion that the Tribunal must decide whether CR can meet the requirements of the Early Years stage and pointed to evidence within the bundle and arising during the hearing including CR's extreme views and lack of cooperation. Mr White said at no point had CR drawn back but has put more extreme views before the Tribunal. Some allegations are serious individually and render him unsuitable, collectively, they clearly do so. For example, CR's health; is he medically fit, his failure to engage, even at this late stage he has failed to do anything about it, the involvement of Social Services. He pointed to LADO findings and the many allegations over a number of years. CR's failure to cooperate with different organisations is such that there can be no confidence going forward as CR is entrenched in his views. Further submissions relating to the individual Scott Schedule items are set out in our conclusions below.

CR

79. CR's closing submissions pointed to the fact that he has not received a single complaint in his professional capacity. Ofsted had the opportunity to bring Police to the hearing and investigate the abuse of his daughter. He submitted Ofsted had not brought any person of colour who has a full-time job, racism exists in the area. He believes that at no time during school inspection did Inspectors look at children's work and Ofsted wanted his intellectual ability in relation to OCR exams. He said the accusations of rape and masturbation have failed and he should be reinstated.

80. CR commented that he is being classed as obstructive because he exercised due diligence to look Inspectors' credentials. He referred to his past experience when his bank account was emptied. He said he has answered every single allegation, he communicates with all his children. SR had not reported him to the Police.

81. CR commented generally on the experience of black children in education and Sandwell's lack of a black M.P. He submitted that as a teacher, his GP has to report his medical records to the Authorities including Ofsted. He was referred to a sleep lab and is suffering trauma from the allegations. He believes Mr Norman has tried to execute what he has been told to do and has failed. In his submissions CR mentioned the Fire Brigade and struggles spearheaded by Malcolm X and Dr Martin Luther King stating Sandwell is a racist area and cesspit of iniquity.

82. CR said he has turned kids around and has upheld British values, not least in his charitable work with the homeless and food bank. His school is owed money by Sandwell, he believes Ofsted requires fresh blood and if they want a working relationship, they have to listen and act and not rely on unproved allegations 10 years old.

83. CR said the Tribunal won't stop him looking after children. He believes MW has influenced SR, who is a troubled girl who now says her mother tries to abuse her. He believes that factors behind this relate to race and that he is a voice for the voiceless. He believes systems need to be changed to benefit all children and reports cannot be based on subjective judgement.

84. CR concluded by quoting from John 14 and suggested "stipulations might be put in place if one must but stopping him from childminding has ramifications that go beyond." Further submissions relating to the individual Scott Schedule items are set out in our conclusions below.

Tribunal's findings

85. Numbering of allegations within this section correspond with the Scott Schedule.

Witnesses

86. We find the presentation of factual evidence provided by Ofsted witnesses as might be expected based on Inspection Tool Kits and direct involvement in the events including evidence incidental to MR's relatively recent application for registration. It was presented in a straightforward and cogent manner. Witnesses also reacted to evidence and information arising during the hearing, for example, health reporting requirements.
87. The witnesses, who were not Ofsted Inspectors, specifically Mrs Pritchett, Mrs Blackwood, Ms Bokhari, Mr Wambe and Miss Greasby presented both in statement and oral form. They answered questions by CR which stretched the limits of their contact and roles and observed the parameters of that role showing understanding and restraint in respect of the evidence they could provide.
88. Overall, we found witnesses giving evidence on behalf of Ofsted credible in respect of fact and explanation of their opinions and judgements underlying theirs and Ofsted's actions.

CR

89. CR expressed in his written statements and at the outset of the hearing his wider view of relevant issues. The nature of his views is recorded above. He repeated assertions which he then stated were fact and then derived further assertions, many of which were personal about the witnesses and his view of systemic and institutional bias, unfairness and prejudice. His evidence was suffused with these views such that the specific grounds raised by Ofsted were subsumed in general and repetitive comments on the injustices of the regulatory systems. Such factual evidence he gave was difficult to discern, vague and permeated with his subjective feelings, all of which combined to cast doubt on its reliability. Much of the background was not in dispute and implications of those facts were the subject of submissions. However, in some aspects CR seemed to develop an already stated position as he progressed, for example, in relation to his ability to produce and absorb written material; in others, his vagueness developed into contradictory evidence, for example, standing for election later clarified as not actually registering as a candidate and appearing on a ballot paper. This also casts doubt on his veracity and reliability.

Tribunal's conclusions

Scott Schedule

A – Non-cooperation, obstruction, honesty and integrity

90. 1. Throughout registration
From the totality of evidence including CR's own explanations, we find he took a rigid and confrontational stance in his contact with Ofsted and other Agencies. We note this is consistent with his overall views that the regulatory systems were themselves racist and inappropriate for meeting the needs of black children and black adults working with them.

91. We find as submitted by Mr White that CR did not disclose the history of Social Services involvement required on registration. At the hearing CR gave some information and explained in relation to his present wife's childminding application that he did not understand the requirement to do so. We find if this is the case, it is an error that is inexcusable and shows a lack of the openness and integrity required. Similarly, we find CR's accusations of criminality are unjustified self-serving rationalisation. CR sought to explain the need for CRB checks to enter his premises but this is not a credible excuse for non-cooperation. In general, he gave confused and evasive answers in respect of circumstances and events which required an explanation. CR asserted unsubstantiated allegations as fact. This raises doubts about CR's ability to distinguish between fact and the narrative he applies to those holding him to account.
92. Whilst CR rationalised his interaction, for example, the need to verify identity and that all Agencies were sharing information, we note his stance evident at the hearing that it was for the Agencies to take the initiative establishing facts and not for him to be proactive or to notify. This is highlighted by his non-disclosure of health issues; he stated that Ofsted had direct access to his GP records, which we find is plainly not the case. We note CR's attitude towards Sandwell Local Authority about whom he has deep suspicions and put forward that they conspired to ensure he and black persons in general do not provide childminding or education services in the area. Whilst aspects of CR's behaviour might be explained by his mistaken view of Ofsted inspection requirements, for example, access to all parts of premises, we find that the evidence shows that this allegation is well founded.
93. 2. Home School
We note the findings of the First and Upper Tribunals in relation to CR's school, Home School. Whilst CR made comments about production of school documentation, inspection findings have been confirmed. His response endorsed on the Scott Schedule, criticises Ofsted's lack of judgements based on the actual work children did. This amounts to criticism of the system and does not deal with the relevant failures. We find this ground established.
94. 3. Maintaining a professional relationship with Ofsted and other Agencies
Ofsted evidence consistently shows CR's strained relationship with both Ofsted Inspectors and the Local Authority. His evidence is that these Agencies are institutionally racist. We find it clear that CR's political and philosophical views undermine his acceptance of the role and function of the Agencies. It is also evident he does not consider they have been of assistance to him but prevent him from carrying out and funding his activities which are inconsistent with the established statutory safeguarding structure. His evidence stating how he would react should a child present a complaint is telling. He mentioned sorting it out himself, possibly with parents and then referring to Police who would investigate a crime. This ground is established.

B - Suitability to work arising from allegations against CR

95. 1. Position of Trust meeting 27 January 2021

We heard direct from the current LADO reviewed the information and clarified the LADO's role. We have noted the allegations considered. CR submitted that the LADO did not have access to all the information, particularly Police records and records of Social Workers within other areas. We are satisfied from LADO and Social Workers' evidence that the conclusions of the Position of Trust meeting were supported by the available evidence and are persuasive.

96. Both in respect of the Position of Trust meeting and the conclusions reached by other witnesses, CR raised the question of recordings of telephone calls with SR. We find that neither the recordings nor CR's suggestion that his former wife continues to have a financial interest in making allegations against him outweigh strong evidence of events properly taken into account at the Position of Trust meeting.

97. CR sought to explain many of the allegations against him as fabrications arising from his political activity or a desire to ensure neither he nor family members lived near a senior Police Officer in Sutton Coldfield. We note these assertions but do not find evidence of a conspiracy to manufacture the events subsequently taken into account at the meeting. We find the Position of Trust outcome "On the balance of probabilities he is not suitable to work with children" cogent and appropriate.

98. 2. Social Services involvement

The involvement of Social Services is factually supported by written and oral evidence. Child Protection and Child in Need Plans have been put in place. CR did not dispute this but considers they were based on erroneous or explicable events. However, we find the evidence in these matters consistent and on balance of probabilities correctly showing conclusions that CR was a risk of harm.

C – Breach of statutory requirements

99. 1.and 2. not enumerated

100. 3. Child Protection procedures

We note the evidence within the monitoring and other visits highlighted by Ofsted within the Schedule. CR's evidence was unsatisfactory, particularly in respect of identifying and referring concerns. Mr White submitted that CR cannot see that his private life is relevant or that he understands the roles of the Agencies. We find this illustrated by Mr Wambe's evidence and starkly confirmed by CR's own evidence. We find this ground established.

101. 4. Knowledge of EYFS Learning Developmental requirements

We note the evidence relied upon by Ofsted and find it overwhelming. This is reinforced by CR's own evidence that he considers he is owed money by Sandwell in respect of services he provided to children. The evidence shows he did not satisfy Sandwell's criteria which reflect the EYFS requirements. Although this dates back some time, we have no evidence CR has improved his knowledge, to the contrary he spoke unfavourably about outcomes both in respect of childminding and school that did not reflect his own priorities. We find the allegation substantiated.

102. 5. Records

Documentary evidence shows that records were not available for Inspectors. This is consistent with the findings in respect of Home School. CR did not provide satisfactory explanation although his general evidence indicates he may have some difficulty keeping records. Not least he stated that he relied both on his sister and wife in respect of written documents. We find the allegations substantiated.

103. 6.Failing to notify

We have noted above evidence relating to a failure to notify, involvement of Social Services and relevant changes including health matters. Evidence was given by CR about health issues around the time he was arrested and subsequent hospital treatment and continuing health treatment. CR, at a late stage in the proceedings indicated that he believed Ofsted had full access to his medical records. We find this is an example of rationalising the situation and not based on evidence. We find CR has failed to notify changes in circumstances as required changes.

Summary

104. We find each of the allegations relied upon by Ofsted within the Scott Schedule established. We accept that some allegations are serious and relate to fundamental requirements for Ofsted to be able to be satisfied CR in the role of Childminder does not pose a risk to children. Regulatory interactions should be routine benefitting the Registrant and the Regulator. This is clearly not the case, CR has the greatest suspicion about regulatory interactions. He has built a story around them involving race, political and conspiracy theories, fraud and external control.

105. CR has not developed throughout his time as a registered Childminder and although some matters are old, his continued non-observance and reluctance to deviate from his own path is entrenched. CR correctly points out that there have not been complaints about a child in his care; we agree no evidence has been put forward although there are allegations relating to his own children from several relationships. Despite the opportunity of reflection since Ofsted's cancellation decision, we have no reason to suspect CR is either more aware or able to conform to Ofsted's requirements and EYFS obligations.

106. A central issue is whether CR understands safeguarding, in particular whether he can assess safeguarding risks. We have found he lacks integrity in his dealings with Agencies, the impression we gained was he has a mission involving a higher calling. We find the evidence illustrates CR cannot appropriately identify and assess safeguarding risks and importantly refer as required. His activities as a Childminder are such they may harm a child and that children may not be kept safe from harm. Overall we conclude his continuation may place a child at risk of harm and that cancellation of registration is both necessary and proportionate. Conditions could not satisfactorily address the risk.

Order

107. CR's appeal is dismissed.

108. Cancellation of CR's registration as a Childminder under Section 68(2) of the Act is confirmed.

Date: 16 December 2021