

Case Examiner Decision

Richard Thackray – SW94121

FTPS-22375

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## The role of the case examiners

The case examiners perform a filtering function in the fitness to practise process, and their primary role is to determine whether the case ought to be considered by adjudicators at a formal hearing. The wider purpose of the fitness to practise process is not to discipline the social worker for past conduct, but rather to consider whether the social worker's current fitness to practise might be impaired because of the issues highlighted. In reaching their decisions, case examiners are mindful that Social Work England's primary objective is to protect the public.

Case examiners apply the 'realistic prospect' test. As part of their role, the case examiners will consider whether there is a realistic prospect:

- the facts alleged could be found proven by adjudicators
- adjudicators could find that one of the statutory grounds for impairment is engaged
- adjudicators could find the social worker's fitness to practise is currently impaired

If the case examiners find a realistic prospect of impairment, they consider whether there is a public interest in referring the case to a hearing. If there is no public interest in a hearing, the case examiners can propose an outcome to the social worker. We call this accepted disposal and a case can only be resolved in this way if the social worker agrees with the case examiners' proposal.

Case examiners review cases on the papers only. The case examiners are limited, in that, they are unable to hear and test live evidence, and therefore they are unable to make findings of fact.

## Decision summary

### Decision summary

|                     |                                                                                                                                                                                                                                                                                                                                                     |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Preliminary outcome | <ol style="list-style-type: none"><li>1. 12 December 2023</li><li>2. 1 February 2024</li><li>3. 15 March 2024</li><li>4. 30 April 2024</li></ol>                                                                                                                                                                                                    |
|                     | <ol style="list-style-type: none"><li>1. Additional regulatory concern required. Further submissions requested.</li><li>2. Further information required. Additional regulatory concern required. Further submissions requested.</li><li>3. Further information required.</li><li>4. Accepted disposal proposed - warning order (5 years).</li></ol> |
| Final outcome       | Accepted disposal proposed - warning order (5 years)                                                                                                                                                                                                                                                                                                |
|                     | 10 May 2024                                                                                                                                                                                                                                                                                                                                         |

### Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of all of the regulatory concerns being found proven by the adjudicators.
2. There is a realistic prospect of all of the regulatory concerns being found to amount to the statutory ground of misconduct.
3. For all of the regulatory concerns there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and that the case could be concluded by way of accepted disposal. As such, the case examiners requested that the social worker be notified of their intention to resolve the case with a warning order of five years' duration. The social worker accepted this proposal.

## The complaint and our regulatory concerns

### The initial complaint

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The complainant                 | The complaint was raised by the social worker's former employer, North East Lincolnshire Council (NELC).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Date the complaint was received | 12 June 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Complaint summary               | The complainant states that it came to their attention that the social worker had a warning from Social Work England against their registration. The complainant states that, when questioned about this, the social worker disclosed that they had received the warning whilst employed previously by NELC. The complainant states that the social worker had omitted the period of employment with NELC from their CV when applying for a role, detailing that they were on a career break instead. Further, the complainant states that, when asked by an employee of NELC who recognised them if they had worked for NELC before, the social worker dishonestly stated they hadn't. |

### Regulatory concerns

#### Regulatory Concern 1

Whilst registered as a social worker you:

1. Omitted a period of social work employment, between December 2019 and January 2020 at North East Lincolnshire Council from your CV
- 1.2 You described this period of time as a 'career break' in your CV

#### Regulatory Concern 2

Whilst registered as a social worker:

2. On 5 June 2023, you provided inaccurate information to an employee of NELC when they asked if you had worked for NELC previously

Regulatory Concern 3

3. Your actions in relation to regulatory concern 1 and 2 were dishonest

Grounds of impairment:

The matters outlined in regulatory concerns 1, 2 and 3 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

## Preliminary issues

| Investigation                                                                                                                                                                                                                               |     |                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------|
| Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?                                                                                                                                 | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?                                                                                                | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| Are the case examiners satisfied that they have all relevant evidence available to them, or that adequate attempts have been made to obtain evidence that is not available?                                                                 | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| Are the case examiners satisfied that it was not proportionate or necessary to offer the complainant the opportunity to provide final written representations; or that they were provided a reasonable opportunity to do so where required. | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |

### Requests for further information or submissions, or any other preliminary issues that have arisen

#### First case examiner response:

Paragraph 67 of the case examiner guidance details that, in some cases, the case examiners may decide that a material amendment to the regulatory concerns is required. If so, they must do all of the following before they can consider the case again:

- adjourn the case
- ask the investigators to make the amendment
- direct the investigators to seek further submissions from the social worker and/or complainant (if appropriate)

Paragraph 68 of the same guidance explains that a material amendment to the regulatory concerns may include adding a new regulatory concern.

The case examiners are of the view that an additional regulatory concern is needed in this case. This is because there is evidence within the information presented to the case examiners, namely the statement from the service manager (pdf page 11), that suggests the social worker has given a dishonest response to an employee of NELC when they were asked if they had worked for NELC previously. Whilst the investigator has identified this with the case investigation report, this hasn't been included as a separate regulatory concern.

Currently the regulatory concerns focus on the omission of information from the social worker's CV, which it is alleged was dishonest. Whilst this may have the potential to be found proven, the alleged response of the social worker to a direct question about their previous employment could be considered overtly dishonest. The evidence in respect of this is also key to the consideration of regulatory concern 1, as it provides context that may be pertinent to the question of dishonesty when assessing the alleged conduct.

The case examiners are of the view that this further matter needs to be captured, as it may affect the gravity of the case.

As such, the case examiners will now take the steps set out in paragraph 67 of their guidance by adjourning the case and asking the investigator to make the amendment.

To assist, the new regulatory concern could read as follows:

- On 5 June 2023 you provided inaccurate information to an employee of NELC when they asked if you had worked for NELC previously.
- Your conduct captured by regulatory concern (number) was dishonest.

The matter outlined in regulatory concern (number) amounts to the statutory grounds of misconduct.

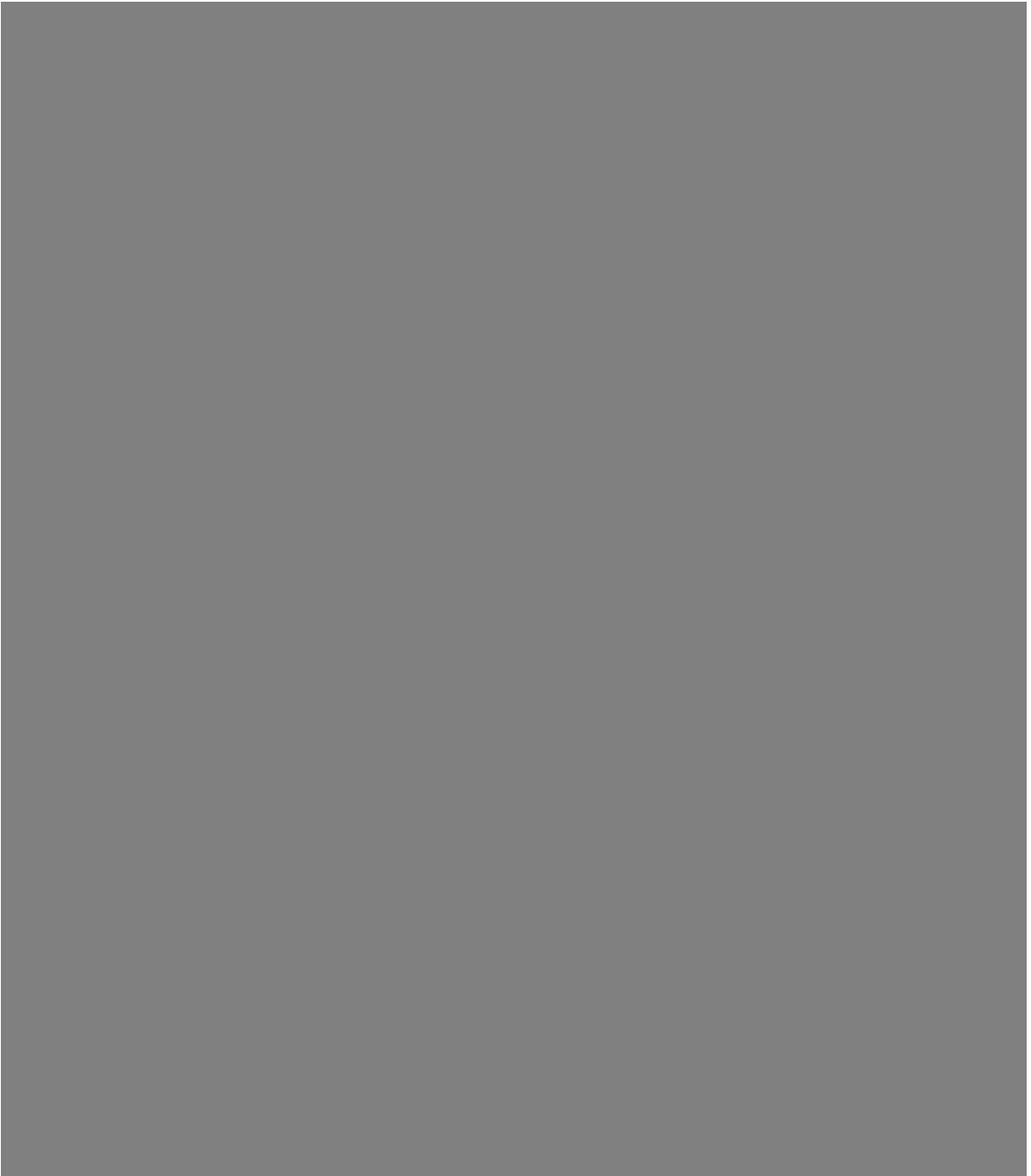
It is usual practice for a social worker to be offered an opportunity to make further submissions when such an amendment is made. However, the case examiners note that the social worker appears to have already commented on the alleged conduct that the case examiners feel should be captured by way of a regulatory concern. Specifically, the social worker states (pdf pg 58):

*'In response to the matter where a member of staff has recognised me from my previous period of employment and my subsequent denial of working there previously, the reason for my denial is that I felt that this was not something that I was wanting to discuss in a large open office environment in the presence of people who I did not know. I also feel that I could not admit this error retrospectively as I had previously not stated this in the interview process and would cause further embarrassment and shame.'*

The investigators will need to consider if further submissions should be sought to ensure fairness to the social worker.

Second case examiner response (1 February 2024):

The case examiners are satisfied that the investigator has carried out all of the actions that the case examiners requested when they initially paused this case. When reassessing the evidence when the case was returned to them, the case examiners have identified an additional preliminary issue.





The case examiners also request that further investigation is carried out in respect of this additional matter. Specifically, the case examiners request:

- Clarification from the complainant as to whether their recruitment process specifically required a prospective employee to disclose any sanctions made against them by the regulator. If so, any documentary evidence that demonstrates this should be requested. Whilst there would have been a need for the social worker to disclose their warning to a prospective employer due to the requirements of Social Work England professional standard 6.6, additional evidence from the employer may assist in further establishing that the social worker was aware of the need to disclose this information during the application process.
  - Evidence from Social Work England's systems that demonstrates the social worker being subject of a warning, and the dates this applied from and to.
- 

Upon re-reviewing the case, the case examiners have identified that further information is needed for them to reach a decision in this case.

In most cases, the case examiners reach a decision based solely on the material that the investigators have provided. However, in some circumstances, the case examiners are not able to reach a fair decision without further information.

Case examiners may request specific additional evidence or information, that is not part of the evidence provided, if they consider this is needed for them to make a fair decision. The case examiner guidance states that in such circumstances, they should adjourn their consideration of the case and formally request the information.

The same guidance provides direction that the case examiners must submit any request for information to the operations team in writing. Their request should clearly explain (both of the following):

- what specific information the case examiners need to help them reach their decision
- why they need this information

Accordingly, the case examiners request the following:

- A copy of the fitness to practise decision referred to in the CIR under the previous history section. It is detailed that the decision was made by case examiners on 3 July 2020 that resulted in the social worker receiving a warning order for 3 years.

The case examiners require this information because they are required to consider any previous fitness to practise history in the course of their decision making.

The case examiners are informed that the warning order was imposed in relation to the social worker's conviction for drink driving.

The case examiners are satisfied, with reference to the regulations and fitness to practise rules, that this history is likely to be considered adverse. They are also of the view that it is likely be fair and reasonable to take this history into consideration as:

- There appears to be a connection between the previous order and the current concerns. The social worker left their then employer due to their conviction, and it was the social worker's alleged omission of that period of employment from their CV, and the alleged verbal denial of having worked for that employer, that the dishonesty in this case centres around.

- It has been less than 4 years since the previous order was made, less than 1 year since the order expired, and the order was still in place at the time of the alleged conduct in this case.

However, the case examiners require sight of the determination for completion purposes prior to finalising their decision.

The case examiners have carefully considered if the social worker should be offered a further opportunity to comment once the previous determination is added to the evidence, and have concluded that this is not necessary for the following reasons:

- The matter of previous history was highlighted to the social worker in the CIR prior to them providing submissions.
- The social worker will have had a copy of the determination previously as they agreed to the accepted disposal prior to it being publicly published.
- The matter of the previous history is not a disputed fact.
- The case examiners will be considering the previous history at the impairment stage of their decision making. Any submissions from the social worker would not alter the case examiner's decision making in respect of adverse history, it is for the case examiners to decide if the existence of the history impacts on potential impairment.

Final case examiner response (15 March 2024):

The case examiners are satisfied that that they have now been provided with all the necessary information and will proceed with their assessment of this case.

## The realistic prospect test

### Fitness to practise history

The case examiners have been informed that on 3 July 2020, Social Work England's case examiners made a final decision to resolve a case relating to the social worker by way of accepted disposal. A warning order of three years' duration was imposed on the social worker's registration.

The case examiners are informed that the warning order was imposed in relation to the social worker's conviction for drink driving. They have therefore considered whether it would be fair and reasonable to take it into consideration. Having done so, the case examiners have determined it is fair and reasonable to do so, at this stage, for the following reasons:

- There appears to be a connection between the previous order and the current concerns. The social worker left their then employer due to their conviction, and it was the social worker's alleged omission of that period of employment from their CV, and the alleged verbal denial of having worked for that employer, that the dishonesty in this case centres around.
- It has been less than 4 years since the previous order was made, less than 1 year since the order expired, and the order was still in place at the time of the alleged conduct in this case.

The case examiners will therefore give consideration to this history as part of their decision making.

### Decision summary

Is there a realistic prospect of the adjudicators finding the social worker's fitness to practise is impaired?

|     |                                     |
|-----|-------------------------------------|
| Yes | <input checked="" type="checkbox"/> |
| No  | <input type="checkbox"/>            |

The case examiners have determined that there is a realistic prospect of all of the regulatory concerns being found proven, that those concerns could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

## Reasoning

### Facts

#### **Regulatory Concern 1**

**Whilst registered as a social worker you:**

**1. Omitted a period of social work employment, between December 2019 and January 2020 at North East Lincolnshire Council from your CV**

**1.2 You described this period of time as a 'career break' in your CV**

The case examiners have had sight of the social worker's CV that is alleged to have been submitted by the social worker when seeking employment with NELC in 2023. There is no mention of a period of employment with NELC between December 2019 and January 2020. The CV details that the social worker was employed by a different local authority until December 2019, and that they were on a career break from January to May 2020.

The head of service at NELC confirms by way of email that the social worker was employed by NELC via an agency from December 2019 to 16 January 2020.

The evidence suggests that the social worker did omit their period of employment with NELC between the dates in question from their CV and that some, though not all, of the period of time was detailed as a career break.

The social worker accepts this regulatory concern.

The case examiners are satisfied there is a realistic prospect of this concern (both parts) being found proven by adjudicators.

#### **Regulatory Concern 2**

**Whilst registered as a social worker:**

**2. On 5 June 2023, you provided inaccurate information to an employee of NELC when they asked if you had worked for NELC previously**

The case examiners have had sight of a statement from the service manager at NELC. They state that, on the date cited in the regulatory concern, they were present when an

employee of NELC said to the social worker that they recognised them, and asked if the social worker had worked at NELC before. The service manager states that the social worker responded by saying they had not.

The head of service at NELC confirms by way of email that the social worker was employed by NELC via an agency from December 2019 to 16 January 2020, which would therefore suggest that the verbal information alleged to have been provided by the social worker was inaccurate.

The social worker accepts this regulatory concern.

The case examiners are satisfied there is a realistic prospect of this concern being found proven by adjudicators.

### **Regulatory Concern 3**

#### **3. Your actions in relation to regulatory concern 1 and 2 were dishonest**

When considering dishonesty, the case examiners have applied two tests. Firstly, they have assessed the evidence to see if there is anything that may demonstrate any belief held by the social worker as to whether they were being dishonest. This is called a subjective test.

The case examiners have noted a statement from a service manager at NELC who states that, during a meeting on 7 June 2023:

- *'Richard then said that he had been dishonest when on Monday (05/06/23) (colleague) said that she recognised and asked if he had worked here bur (sic) Richard told her that he had never worked here.'*
- *'Richard accepted that there had been a level of dishonesty on his part.'*
- *'Richard said that himself and his consultant had agreed to omit the period that he worked in North East Lincolnshire from his CV.'*

The agency by way of email disputes the social worker's assertion detailed at the final bullet point above. They state :

- *'(The agency) did investigate this internally and we believe that this was a deliberate attempt by the candidate to subvert our safeguarding process and fits a pattern of deliberate omissions by the candidate with both the recruitment consultant, the business and NE Lincs which specifically relate to this placement.'*
- *'..... we can find no evidence that anyone from (the agency) was involved in encouraging Richard to omit details from his application. We've discussed this at length with the individual concerned and have provided additional training on*

*potential red flags when interviewing candidates to ensure that we are doing everything we can to prevent candidates from attempting to do this again.'*

In their submissions, the social worker provides somewhat contradictory information in respect of their intentions. On one hand they state:

- *'Upon reviewing the incident and the CV I have submitted to the organisation I do admit that I have erroneously omitted my previous employment history, however I would add that this is not with the intention to mislead or deceive the organisation on a malicious level.....'*
- *'...Furthermore, the previous period of employment was for a period of approximately 3-4 weeks and therefore did not see this as an employment entry that needed to be recorded.'*

In contrast the social worker states:

- *'..... though I was not open in the application process, the reasoning and rationale for this was to reduce the possibility of having to further discuss the conviction from 2020 and want to move on from this episode which is (sic) view with a sense of shame although 3 years ago.'*
- *'In response to the matter where a member of staff has recognised me from my previous period of employment and my subsequent denial of working there previously, the reason for my denial is that I felt that this was not something that I was wanting to discuss in an large open office environment in the presence of people who I did not know. I also feel that I could not admit this error retrospectively as I had previously not stated this in the interview process and would cause further embarrassment and shame.'*

The case examiners considered whether the conduct is likely to be deemed dishonest by applying the objective standards of ordinary decent people. This is called an objective test.

It is reasonable to state that the social worker may have had something to gain by deliberately attempting to subvert recruitment processes, and withholding information about previous employment history. In this instance, the social worker had left NELC previously due to their criminal conviction and was subsequently made subject to regulatory action. It could be suggested that the social worker's motivation was to avoid this coming to light, as it may have negatively impacted upon their prospects of employment.

The case examiners are satisfied that, if a social worker was proven to have deliberately omitted a period of employment from their CV with the intention to mislead, and lied about

working for an employer previously when asked about this in person, an ordinary decent person is likely to view that as dishonest.

The case examiners are satisfied there is a realistic prospect of this concern being found proven by adjudicators.

### Grounds

The case examiners must next consider whether, if found proven, the concern could amount to the statutory ground of misconduct.

There are generally considered to be two types of misconduct. These are (either of the following):

- misconduct which takes place in the exercise of professional practice
- misconduct which occurs outside the exercise of professional practice, but calls into question the suitability of the person to work as a social worker

The case examiners also note that 'misconduct' denotes serious acts or omissions, suggesting a significant departure from what would be proper in the circumstances.

To help them decide if the evidence suggests a significant departure from what would be proper, the case examiners have considered the following Social Work England professional standards, applicable at the time of the concerns:

As a social worker, I will:

- 2.1 Be open, honest, reliable and fair.

As a social worker, I will not:

- 5.2 Behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

Where it is found that a social worker acted dishonestly, this is always likely to be considered serious. Whilst there can be differing degrees of dishonesty, the case examiners are satisfied that dishonesty that could impede safer recruitment processes would not be considered low level.

Honesty is key to good social work practice. Social workers are routinely trusted with access to private spaces (such as people's homes), and highly sensitive and confidential information (such as case notes). Social workers are relied on to act with honesty and integrity when making important decisions about service users, their relatives and carers. When a social worker does not act honestly, this is highly likely to bring into question their suitability to work as a social worker.

If the matters were to be found proven, the case examiners conclude the alleged conduct is serious, and is likely to be considered a significant departure from the professional standards detailed above.

**As such, the case examiners are satisfied there is a realistic prospect of adjudicators finding this matter amounts to misconduct.**

### **Impairment**

Having concluded there is a realistic prospect of adjudicators establishing the statutory ground of misconduct, the case examiners must consider whether there is a realistic prospect of adjudicators finding current impairment. The case examiners are aware they must assess both the personal and public elements of current impairment. They will consider each in turn.

#### **Personal element**

The case examiner guidance states that there are multiple factors that case examiners should look for when considering the personal element of impairment, in order to assess the risk of repetition. These include, whether the social worker has admitted the allegations, if they have demonstrated insight, if they have evidenced remediation, any relevant previous history, and any testimonials that have been provided.

#### Relevant previous history

The case examiners have noted that there is adverse history in this case, which they have commented on earlier, in the adverse history section of this document. As stated, previous adverse decisions may raise concerns about the willingness or capacity of the social worker to observe their professional duties.

It has been less than 4 years since the previous order was made against the social worker, less than 1 year since the order expired, and the order was still in place at the time of the alleged conduct in this case.

The case examiners are of the view that this may highlight a lack of reflection and learning from past concerns.

#### Admissions

The social worker admits the allegations and appears to accept their role and responsibilities in relation to the events that gave rise to the concerns. They do however provide somewhat conflicting information in respect of the allegation of dishonesty.

#### Insight

In respect of insight, the case examiners are aware that they must take care to assess the quality of any insight. A social worker may accept they have acted wrongly. However, simply asserting this is unlikely to be enough to demonstrate genuine insight.

In their submissions the social worker appears to demonstrate an understanding of what led to the events which are the subject of the concern. The social worker seems to recognise what went wrong. The social worker has provided some information to demonstrate what they could (and should) have been done differently and has addressed how they might act or react differently if the same circumstances were to happen again (to avoid reoccurrence of similar concerns). The social worker states:

- *'I have read the guidelines regarding professional standards as set out in the initial letter and feel that this has given me an additional understanding of the need for transparency in social work practice. I will use this episode to reflect upon my error and upload this document as evidential proof of continued learning and reflective practice.'*
- *'In learning lessons from this episode going forward I will ensure that all reporting of employment history is an honest account of previous employers and dates that I have been employed, this will demonstrate transparency and an understanding of professional accountability.'*

The social worker provides a working example of putting their insight into practice (which has been confirmed by their new employer), they state:

- *'When this current matter has been brought to my attention I had already begun a further role as a social worker, and though under no reported obligation by SWE to notify my employer and I could therefore continue to work as a social worker, I chose to notify them immediately and though this has led to my dismissal with Bradford City Council. I would therefore state that I have acted in an honest and open manner and this would demonstrate that I am in good overall character and not wanting to be deceive an employer.'*

When assessing insight, it is also important to establish if the social worker demonstrates a genuine understanding of the impact of their actions on others, and the profession. The following submissions suggest the social worker does have an understanding of this.

- *'Upon reflection this was a poor error of judgement and I understand the need for this to be addressed by the professional regulatory body of Social Work England. The need for practitioners to ensure that all recording both personal and professional is done to a high standard so that standards can be upheld.'*

- *'I also understand the need to work in an open and honest manner which could affect the ethics that underpin professional social work practice and the way that the public perceive social work practitioners.'*
- *'In addition the need to uphold the values and ethics of Social Work England are paramount and this has given further insight into the need for professional regulatory standards.'*

The case examiners are of the view that, in the round, the social worker does appear to have good insight.

#### Employment reports and testimonials

Case examiners must carefully look for and assess any objective evidence that might confirm the social worker's insight. For example, reports from their employer commenting on any reflective work the social worker has undertaken. Testimonials that provide up to date, credible information about the social worker's current practice can also be relevant when exploring current impairment.

The case examiners have had sight of two testimonies from the social worker's current line managers at a local authority, dated 9 April 2024. The social worker has been employed in their role since August 2023. Both managers speak very positively about the social worker, the first stating:

- *'In his initial interview Richard was open and honest about his involvement with SWE and that he had an open case with SWE from his time with North Lincolnshire, he explained the circumstances in full to myself and another team manager.'*
- *'He was also open and honest about other issues that he has had in his past and demonstrated he was able to reflect on these incidents and how he has made changes to ensure good social work practice in the future.'*
- *'Richard was not avoidant of the situation and did not minimise the gravity of the situation he was in. I was impressed with Richard's honesty in his interview and ultimately made the decision to employ him as an Agency Social Worker in my team.'*
- *'He has always being (sic) honest with me when he is struggling or something has not gone to plan, due to external factors and I completely trust Richard and his practice.'*
- *'I would just like to say that Richard really is a pleasure to have in my team, he is a good social worker with strong social work practice skills, who I have no concerns*

*about, I would wish to have a whole team of social workers with his attitude, openness and social work practice.'*

The second manager stating:

- *'Richard, from initial interview has always been open and honest with regards to his circumstances and involvement with Social Work England and the reasons why. Richard despite this being a difficult time for him, has not attempted to minimise the situation or be avoidant about the subject.'*
- *'Richard really is a pleasure to have in the team, he is a strong social worker, who I have no concerns about and wish there were more with his honesty and commitment to his practice and the children and families with whom he works.'*

### Remediation

Turning their minds to remediation, the case examiners are aware that this is best shown by objective evidence. For example, by the successful completion of education or training courses (and information from the social worker to explain what they have learned from these), satisfactory performance appraisals, or other positive feedback in relation to their professional practice.

The case examiners have highlighted the positive testimonials about the social worker from their current managers, these speak to the matter of dishonesty that this case centres around.

The case examiners are mindful that it can be very different to remediate character or attitudinal concerns, such as dishonesty. Training is not routinely available for such issues. In this case, the social worker has provided good insight and their line manager confirms that the social worker has carried out reflection in respect of the matters in question.

Importantly, the social worker's line manager has confirmed that the social worker was open and honest when applying for their latest role, which provides objective evidence of the social worker acting differently, as they asserted they would do in their submissions. This in itself could be considered evidence of remediation.

### Risk of repetition

The purpose of case examiners assessing multiple factors when considering the personal element of impairment, is to assess the risk of repetition, put simply the likelihood of the conduct happening again. In this case, the case examiners are assisted by objective information from the social worker's employer that speaks to the social worker acting differently and correcting their alleged previous shortfalls in disclosing information. The case examiners are mindful though that this happened whilst the social worker was under

the spotlight of the regulatory investigation, and there has been a relatively short period of time (less than one year) since the matters arose.

Despite there being several positive elements in the social worker's favour when assessing the personal element of impairment, there are also aggravating factors such as the adverse history and the nature of the dishonesty related concerns that can inherently create a real risk of repetition.

The information reviewed leads the case examiners to conclude that, at the current time, there is a risk of repetition.

### **Public element**

The case examiners must now consider the public interest in this matter.

Dishonesty is likely to be viewed particularly seriously given the access social workers have to people's homes and lives. It is essential to the effective delivery of social work that the public can trust social workers implicitly.

A social worker acting dishonestly, undoubtedly has the potential to undermine public confidence. Such conduct is certainly a significant departure from professional standards.

Regulatory concerns regarding dishonesty go to the heart of public confidence in the social work profession. They have the potential to undermine the public's trust in social workers. As such, it is likely the public would expect that a finding of current impairment is made by adjudicators to maintain public confidence in the regulation of the profession.

**Having considered both the personal and public elements, the case examiners have concluded there is a realistic prospect that adjudicators would find the social worker to be currently impaired.**

## The public interest

### Decision summary

|                                                                |     |                                     |
|----------------------------------------------------------------|-----|-------------------------------------|
| Is there a public interest in referring the case to a hearing? | Yes | <input type="checkbox"/>            |
|                                                                | No  | <input checked="" type="checkbox"/> |

### Referral criteria

|                                                                                                                                        |     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------|
| Is there a conflict in the evidence that must be resolved at a hearing?                                                                | Yes | <input type="checkbox"/>            |
|                                                                                                                                        | No  | <input checked="" type="checkbox"/> |
| Does the social worker dispute any or all of the key facts of the case?                                                                | Yes | <input type="checkbox"/>            |
|                                                                                                                                        | No  | <input checked="" type="checkbox"/> |
| Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers? | Yes | <input type="checkbox"/>            |
|                                                                                                                                        | No  | <input checked="" type="checkbox"/> |

### Additional reasoning

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired. Where a social worker does not accept impairment, case examiner guidance suggests that a referral to a hearing may be necessary in the public interest.

However, the case examiners note that the guidance states the social worker must accept the matter of impairment at the point of *concluding* the case, and are of the view that this does not prevent them offering accepted disposal prior to this. The case examiners consider that it is reasonable to offer accepted disposal in this case because:

- There is no conflict in evidence in this case and the social worker accepts the facts.
- The social worker is clear that they accept that their practice fell short of the standards expected of them.

- The case examiners are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order to satisfy the public that this risk is being managed without the need for this to be examined within a public hearing.
- The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise.
- The accepted disposal process will provide the social worker an opportunity to review the case examiners reasoning on impairment and reflect on whether they are able to accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.
- The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

## Accepted disposal

| Case outcome      |                              |                                     |
|-------------------|------------------------------|-------------------------------------|
| Proposed outcome  | No further action            | <input type="checkbox"/>            |
|                   | Advice                       | <input type="checkbox"/>            |
|                   | Warning order                | <input checked="" type="checkbox"/> |
|                   | Conditions of practice order | <input type="checkbox"/>            |
|                   | Suspension order             | <input type="checkbox"/>            |
|                   | Removal order                | <input type="checkbox"/>            |
| Proposed duration | 5 years                      |                                     |

## Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance and reminded themselves that the purpose of a sanction is not to punish the social worker but to protect the public and the wider public interest. Furthermore, the guidance requires that decision makers select the least severe sanction necessary to protect the public and the wider public interest.

In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available sanctions in ascending order of seriousness:

### No further action

The case examiners considered taking no further action. Paragraph 95 of the sanctions guidance states that, when decision makers find impairment, an outcome of 'no further action' is rare. However, this could be possible in cases where the finding of impairment itself is enough to protect the public or address the public interest.

The case examiners conclude that taking no further action would not provide the necessary level of public protection and would not satisfy the wider public interest given the allegations of dishonesty in this case.

### Advice

The case examiners next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners

decided that issuing advice was not sufficient to mark the seriousness of the social worker's alleged dishonesty.

#### Warning order

The case examiners next considered whether a warning order would be appropriate in this case. The case examiners are aware that where a social worker's fitness to practise is potentially impaired, they will usually need to ensure the public is protected through some action by the regulator.

This was an extremely finely balanced determination. However, the case examiners have decided that such protection can be met with a warning order despite the risk of repetition and the existence of potential attitudinal concerns. The case examiners provide further reasoning around this later in their determination when introducing the alternate, more severe, sanctions.

The case examiners have considered the length of time for the published warning and consider five years to be necessary in this case to maintain public confidence and to send a message to the public, the profession and the social worker about the standards expected from social workers.

The case examiners are of the view that this case has fallen only marginally short of requiring restriction of practice and in such instances the sanctions guidance suggests that anything less than 5 years would not be appropriate. Further, the case examiners have taken into account the adverse history in this case. The previous case was finalised by way of a warning order of 3 years' duration. The case examiners in that case stated in their warning that:

- *'Any further criminal offences or matters brought to the attention of the regulator are likely to result in a more serious outcome.'*

The case examiners consider that the longest available duration will help to maintain public confidence and highlight the professional standards. The social worker should ensure there is no risk of repetition throughout this extended period. The case examiners consider this is key given the allegations of dishonesty to alleviate any concerns about the existence of a deep seated attitudinal flaw.

#### Conditions of practice

The case examiners went on to consider conditions of practice. They concluded that conditions were more relevant in cases requiring some restriction in practice and were not suitable for this case that centres around dishonesty. It would not be possible to formulate workable conditions to address the potential attitudinal concerns that exist in this case.

## Suspension

The case examiners carefully considered suspension. Several aspects of the sanctions guidance would appear to steer the case examiners to this sanction. The case examiners highlight that the same guidance makes it clear that matters of dishonesty can result in removal, but that the following circumstances (which all appear to apply in this case) may result in this being avoided with suspension as an alternative:

- The concerns represent a serious breach of the professional standards.
- The social worker has demonstrated some insight.
- There is evidence to suggest the social worker is willing and able to resolve or remediate their failings.

Though the last point could be argued to the contrary given the existence of potential attitudinal concerns, namely dishonesty, the case examiners are satisfied that the social worker has demonstrated sufficient insight to suggest that remediation is not out of reach.

In addition, there is nothing to suggest the alleged dishonesty was persistent, rather that it was isolated to the social worker's failure to disclose accurate information to their then employer about specific employment history. The social worker has applied for and obtained employment more recently and it has been confirmed that the social worker has acted openly and transparently.

Given that much of the above commentary would support the case examiners offering suspension in this case, they are aware that they must provide clear reasoning why they have deemed that a lesser sanction of a warning order for 5 years is appropriate.

The sanctions guidance states that a warning order is likely to be appropriate where (all of the following):

- The fitness to practise issue is isolated or limited
- There is a low risk of repetition
- The social worker has demonstrated insight

The case examiners are satisfied that the issue is limited to the social worker's disclosure of employment history. The social worker has provided a good level of insight, which their manager also testifies to. The case examiners have found a risk of repetition in this case, due largely to the nature of dishonesty. In reality, the passage of a significant period of time is required in this case for the social worker to be able to demonstrate that the risk

of repetition is sufficiently low. The case examiners noted that the sanctions guidance in respect of three and five year warnings respectively states that:

- *'The period also allows more time for the social worker to show that they have addressed any risk of repetition'*
- *'A social worker should ensure there is no risk of repetition throughout this extended period. If successful, there will be no further fitness to practise findings (in relation to similar concerns)'.*

The case examiners have interpreted this guidance to mean that there will be cases where a risk of repetition exists, but a warning order can still be proportionate.

The case examiners have noted that the social worker's current employer has spoken to the social worker's good character and honesty. The employer describes a social worker who is playing a vital role in their team and in the service provided to those engaged with services. There is no evidence that the social worker has acted dishonestly in respect of practice specific tasks, at any time throughout their employment history. The case examiners are of the view that, in the specific circumstances of this case, the direct risk to members of the public is limited to the risk to public confidence. Further, that this can be addressed by way of a warning order of the maximum duration, that demonstrates clear disapproval of the social worker's alleged conduct.

The case examiners consider that restricting the social worker's practice by way of suspension would be a disproportionate and punitive outcome. The case examiners have determined that, in all the circumstances, a warning order of five year's duration is proportionate in this case.

The case examiners will notify the social worker of their proposal to issue a warning order of five years' duration, and will seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 21 days to respond.

If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

## Content of the warning

The case examiners formally warn the social worker as follows:

Dishonesty is a very serious matter. Your decision to omit information from your CV, and to lie when asked about your employment history by a colleague, demonstrated a serious lack of judgement.

In addition, you were subject to a previous warning issued by the regulator at the time the further issues arose. This could suggest you had a disregard of the regulator and its function. Your actions could have an adverse effect on the public's confidence in you as a social worker. It may also damage the reputation of the social work profession.

This conduct should not be repeated. Any further matters brought to the attention of the regulator are highly likely to result in a more serious outcome.

### Response from the social worker

The social worker provided a response on 3 May 2024 and confirmed *'I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full.'*

### Case examiners' response and final decision

The case examiners concluded that the social worker's fitness to practise was likely to be found impaired but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning with a duration of 5 years, the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, the case examiners have considered again whether there would be a public interest in referring this matter to a public hearing. They remain of the view that this is unnecessary for the reasons set out earlier in the decision.

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, they remain of the view that an accepted disposal by

way of a warning of 5 years duration is a fair and proportionate disposal, and is the minimum necessary to protect the public and the wider public interest.