



Case Examiner Decision

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FTPS-20641

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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

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	Accepted disposal proposed - warning order (three years)
Final outcome	Accepted disposal - warning order (three years)
Date of the preliminary decision	21 June 2023
Final decision	12 July 2023

Executive summary

The case examiners are satisfied that there is a realistic prospect that:

1. The factual concern could be found proven by the adjudicators.
2. The concern could amount to the statutory ground of conviction.
3. The adjudicators could conclude that the social worker's fitness to practise is currently impaired.

The case examiners do not consider it to be in the public interest for the matter to be referred to a final hearing. They consider that the case can be concluded by way of accepted disposal.

As such, the case examiners notified the social worker of their intention to resolve the case with a warning order of three years. The social worker was given 14 days to consider this proposal. On 4 July 2023, the social worker signed a document confirming that they understood and accepted the terms of the accepted disposal.

The case examiners have considered all of the documents made available within the evidence bundle. Key evidence is referred to throughout their decision and the case examiners' full reasoning is set out below.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by self-referral by the social worker
Date the complaint was received	9 May 2022
Complaint summary	The social worker made a self-referral following their arrest, and subsequent conviction for drink driving on 27 March 2022.

Regulatory concerns

RC1. On 19 April 2022, at Teesside Magistrates Court, you were convicted of failing to provide a blood specimen for analysis.

Grounds of impairment

The matters set out at RC1 above amount to the statutory ground of criminal conviction or caution in the UK.

Your fitness to practise is impaired by reason of criminal conviction or caution in the UK.

Preliminary issues

Investigation		
Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?	Yes	☒
	No	☐
Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?	Yes	☒
	No	☐
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	☒
	No	☐
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	☒
	No	☐

The realistic prospect test

Fitness to practise history

The case examiners have been informed that there is no previous fitness to practise history.

Decision summary

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

Yes



No



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

Reasoning

Facts

RC1. On 19 April 2022, at Teesside Magistrates Court, you were convicted of failing to provide a blood specimen for analysis.

The case examiners have seen a certificate of conviction from Teesside Magistrates Court. The hearing took place on 19 April 2022, the social worker entered a guilty plea for failing to provide a specimen for analysis on 27 March 2022. The social worker was fined £730.00 and disqualified from driving for 36 months.

The social worker states that at the time they were unaware of the seriousness of refusing to provide a specimen of blood for analysis as they had completed a breath test and admitted to drink driving.

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

Grounds

The case examiners as part of their determination, must next consider whether, if found proved, the concerns would amount to an allegation of impaired fitness to practise by reason of the statutory grounds. The relevant statutory ground in this case is conviction.

- The case examiners have had sight of the memorandum of conviction in relation to the offence. It is suggested that the social workers conduct was not aligned to the relevant professional standards which state that a social worker will not:

5.2 As a social worker, I will not behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

Accordingly, the case examiners are satisfied that there is a realistic prospect of adjudicators establishing the statutory ground of ‘conviction,’ as provided by The Social Workers Regulations 2018.

Impairment

In considering whether the social worker is currently personally impaired, the case examiners are mindful of the following:

- is the conduct remediable?
- has the social worker undergone remediation and demonstrated insight?
- whether there is a likelihood the matters alleged will be repeated?

The social worker self-referred to Social Work England and entered a guilty plea at their court hearing. In submissions the social worker apologises for their actions and states that their behaviour on the date in question was out of character.

The social worker appears to have taken responsibility for their actions, they have referred themselves for talking therapy and said they would be completing a drink driving awareness course. There is no evidence to confirm that the social worker has completed the drink driving awareness course, however, assuming they have completed this, the conduct in question could be considered remediable.

The social worker’s employer describes them as a valued member of the team who is well thought of by their colleagues. The social worker’s current employer considers this to be an isolated incident which they have been open and honest about. The social worker’s employer suggests that the social worker has shown ‘*deep regret*’ for their actions and ‘*fully accepts the seriousness of the incident.*’

Public Impairment

When considering the wider public interest, the case examiners are required to determine:

- Does the conduct put the public at risk?
- Is the conduct a significant departure from the Standards?
- Does the conduct have the potential to undermine the trust and confidence in the profession?

The case examiners must next consider whether the social worker's actions have the potential to undermine public confidence in social workers and whether this is a case where adjudicators may determine that public interest requires a finding of impairment. Public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public's trust and confidence in the profession.

The case examiners have consulted the drink and drug driving policy and note the following aggravating factors:

- The sentence imposed includes a period of disqualification of over 12 months.
- The offence included involvement in a road traffic collision, albeit with stationary vehicles.
- The social worker provided a breathalyser result of 128 microgrammes of alcohol on 100 millilitres of breath, which would be considered a high reading.

The social worker does not agree that their fitness to practise has been impaired by this event, so whilst they do take full responsibility for their actions and express remorse, the case examiners question whether the social worker fully understands the risks presented by their actions and behaviour on 27 March 2022.

Adjudicators may determine that the public would expect a finding of impairment recorded against a social worker who conducted themselves in this manner and received a conviction as a result. Furthermore, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

Accordingly, case examiners are satisfied that there is a realistic prospect that the social worker's fitness to practise is impaired on the public interest grounds.

The public interest

Decision summary

Is there a public interest in referring the case to a hearing?	Yes	☐
	No	☒

Referral criteria

Is there a conflict in the evidence that must be resolved at a hearing?	Yes	☐
	No	☒
Does the social worker dispute any or all of the key facts of the case?	Yes	☐
	No	☒
Could a removal order be required?	Yes	☐
	No	☒
Would not holding a public hearing carry a real risk of damaging public confidence in Social Work England's regulation of the profession?	Yes	☐
	No	☒
Is a hearing necessary to maintain public confidence in the profession, and to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

The case examiners are mindful that their guidance is clear that the purpose of fitness to practise processes is not to blame or punish social workers for past mistakes or poor behaviour.

The case examiners note the positive testimonial evidence presented by the social worker's employer and their statement that in their view this is an isolated incident which occurred outside of the workplace. The social worker's employer considers the social worker's work to be of a high standard. Given this, the case examiners consider it unlikely that consideration would be given to removing the social worker from the register.

The case examiners have carefully considered the serious consequences of the social worker's actions as they had the potential to cause harm to the public and affect trust and confidence in the profession; alongside the remorse, remediation and insight shown by the social worker. The case examiners have however found a realistic prospect of the identified concern and statutory grounds i.e., conviction, being found proven by adjudicators. The case examiners have also found a real prospect that adjudicators would find the social worker's fitness to practise is currently impaired.

With reference to their case examiner guidance (2022) the case examiners have given careful consideration to whether there is a public interest in these matters proceeding to a hearing as the social worker does 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 hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance as the social worker does not dispute the facts and appears to take responsibility for their actions.

The case examiners consider that this matter could be concluded by way of accepted disposal if the social worker agrees to this. The accepted disposal process provides the social worker with an opportunity to review the case examiners' reasoning on impairment and reflect on whether they are able to accept a finding of impairment. The social worker can reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.

An accepted disposal sanction would mark the regulator's disapproval of the social worker's conduct and the importance of adhering to and upholding the professional standards. The publication of this decision will also serve the wider public interest in this matter and maintain public confidence in the profession.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	Three 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. The case examiners considered taking no further action but considered that this would not be appropriate in this instance as it would not satisfy the wider public interest. The case examiners next considered whether offering advice would be sufficient. 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 believe that issuing advice is not sufficient to mark the seriousness with which they view the social worker's conduct. The case examiners then considered a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order, and the case examiners concluded that a warning order is the appropriate and proportionate outcome in this case; and represents the minimum sanction necessary to uphold the public's confidence. When considering a warning order, case examiners can direct that a warning order will stay on the social worker's register entry for periods of one, three or five years. According to case examiner guidance, 1 year might be appropriate for an

isolated incident of relatively low seriousness where the primary objective is to send a message about the professional standards expected of social workers; 3 years might be appropriate for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers; and 5 years might be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration, to maintain confidence in the profession and where it is necessary to send a clear signal about the standards expected.

The case examiners have decided to propose to the social worker a warning order of three years duration, this is because case examiner guidance suggests this may be appropriate for more serious concerns and will allow the social worker a sufficient period of time to address any risk of repetition.

The case examiners have tested their proposed sanction by considering whether conditions of Practice would be more suitable. However, the social worker is said to be a valued and high achieving social worker and as such conditions of practice does not appear to be necessary or proportionate.

The case examiners will now notify the social worker of their intention to dispose of the matter by way of accepted disposal (three-year warning order). The social worker will be offered 14 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:

Failing to comply with police instructions is a serious criminal offence. Your decision to act in this way and your subsequent conviction, demonstrated a serious lack of judgement. What is more, you put yourself and members of the public at risk of harm. Your conviction could also have an adverse effect on the public's confidence in you as a social worker and may also damage the reputation of the social work profession.

The case examiners specifically draw your attention to Social Work England Professional Standards (2020).

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.

This conduct should not be repeated. The regulator will take a dim view on any further criminal offences or similar matters brought to their attention and are likely to impose a more serious outcome. This warning will remain published for three years which reflects how serious the case examiners consider the matter to be.

Response from the social worker

On 4 July 2023, the social worker confirmed that they had read the case examiner's decision and the accepted disposal guide. The social worker confirmed that they understood the terms of proposed disposal of their case and accepted them in full.

Case examiners' response and final decision

The case examiners have reviewed their decision, paying particular regard to the overarching objective of Social Work England: protection of the public, the maintenance of public confidence in the social work profession and upholding professional standards. Case examiners are satisfied that an accepted disposal (warning) is a fair and proportionate way to address the concerns and is the minimum necessary to protect the public and satisfy the wider public interest.