

Case Examiner Decision
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FTPS-20910

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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	11 April 2024
	Accepted disposal proposed - conditions of practice order (18 months)
Final outcome	23 April 2024
	Accepted disposal - conditions of practice order (18 months)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1.1 and 1.2 being found proven by the adjudicators;



3. There is a realistic prospect of regulatory concerns 1.1 and 1.2 being found to amount to the statutory ground of lack of competence or capability:
4. For regulatory concerns 1.1 and 1.2, 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 they determined 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 conditions of practice order of 18 months. The social worker

agreed to this proposal and the case examiners have concluded the case by way of 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.

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in [REDACTED] will be redacted only from the published copy of the decision and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

In accordance with Social Work England's Fitness to Practise Publications Policy, the case examiners have anonymised the names of individuals to maintain privacy. A schedule of anonymity is provided below for the social worker and complainant and will be redacted if this decision is published.

Child A	[REDACTED]
Child B	
Child C	
Child D	

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised the social worker's former employer, Haringey Council.
Date the complaint was received	25 April 2022
Complaint summary	The social worker was in their Assessed and Supported Year in Employment (ASYE) and the employer raised competency issues relating to the social worker's fitness to practise. The social worker resigned prior to an investigation.

Regulatory concerns

1. Whilst registered as a social worker

You failed to meet the required practice standards for your role in that you:

1.1) Did not complete written work within timescales and/or

1.2) Did not complete visits within timescales.



The matters outlined in regulatory concern 1 and/or regulatory concern 2 amount to the statutory ground of lack of competence or capability.

Your fitness to practise is impaired by lack of competence or capability.

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	☐

Requests for further information or submissions, or any other preliminary issues that have arisen
The case examiners note that there was a typographical error and practice is spelt incorrectly in the regulatory concerns. This has been corrected. The case examiners are satisfied that the amendment made is minor, and they therefore considered it to be unnecessary and disproportionate to delay consideration of the case further by seeking additional submissions from the social worker.

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 concerns 1.1 and 1.2 being found proven, that those concerns could amount to the statutory ground of lack of competence or capability, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

1. Whilst registered as a social worker

You failed to meet the required practice standards for your role in that you:

1.1) Did not complete written work within timescales

The case examiners have seen a chronology from the employer of the concerns they had in respect of the social worker's written work. The chronology shows some drift and delay for 3 young people, as it appears that there was a lack of recording on two of the cases and there was a lack of paperwork for two of the cases. The case examiners note that the chronology would appear to be an accurate representation of the evidence provided, which the case examiners have independently assessed.

The case examiners have seen case notes relating to three young people. They note that on all the cases, there are records of concerns being escalated by the young people's

Independent Reviewing Officer (IRO), as work had not been completed by the social worker and this had caused delay to the young people's care plans or court proceedings.

With regards to specific examples of the concerns for the four young people, the case examiners note the following:

- Child A: There were a number of critical incidents recorded, such as Child A missing from placement on numerous occasions in August, October, November and December 2021, however the social worker appears not to have completed these case records within the timescales prescribed by the employer dependent upon the specifics of the case, for example if a child was subject to a care order or on a child protection plan. In some instances, the incidents in October were not recorded until January 2022. The IRO raised concerns that the documents for the looked after child review had not been completed in November 2021 and that they were significantly overdue.
- Child B – The IRO raised a dispute resolution for this child as the care plan had not been submitted, the looked after child review had to be rearranged due to delays with paperwork and the child and family assessment or social worker report for the review had not been completed.
- Child C – Documents that were required for the adoption order had not been completed and independent reviews were cancelled due to paperwork not being submitted on time. There was a general lack of recording, which led to confusion over arrangements for Child C to travel abroad with the family.
- Child D -Whilst the case examiners have not seen primary evidence in respect of this child, the chronology states that no assessment had been completed of whether the child could live with family, despite the family being informed that this would be completed within a week.

The case examiners have also been made aware of concerns raised by a second employer, namely Waltham Forest, however there is minimal primary evidence to support these concerns. The case examiners have seen emails from the social worker's manager stating that the social worker was not following up on actions set in supervision on their cases and that work remained outstanding. The case examiners have been provided with some emails from the manager which show the manager chasing the social worker for outstanding work and a complaint from a service user about the delays to documents being completed.

Within the social worker's submissions to Social Work England, they accept the concerns raised and state, *'I recognise that during my previous employment and subsequently at Waltham Forest, there were shortcomings in my record keeping, leading to poor documentation and missed deadlines for visits and plan. I deeply regret allowing this to happen and take full accountability for the lapse in my practice'*.

The evidence suggests that concerns were raised in relation to a number of cases, as to the standard of the social worker's written work and that this was not completed within the prescribed timescales.

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

1.2) Did not complete visits within timescales.

The case examiners have seen emails in July and December 2021 chasing the social worker to complete overdue visits and an audit outlining all the outstanding visits that the social worker needed to complete. The case examiners note that the email in December suggests that the social worker had 11 visits that were overdue. The case examiners have seen the practice guidelines provided by the employer as to when these visits needed to be completed and they have cross referenced the visits against these timeframes. They are satisfied that the evidence suggests that the social worker had 11 visits which were overdue at this time.

The case examiners have also seen a complaint from some prospective adopters/foster carers where they have raised concerns that the social worker had not visited them for over 9 weeks.

The evidence suggests that the social worker did not complete a significant number of visits within timescales.

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

Grounds

Lack of competence or capability

The case examiners' guidance explains that lack of competence or capability suggests a standard of professional performance which is unacceptably low. It means a social worker has demonstrated that they may lack the knowledge and skills to do their work in a safe and effective manner. This must usually be demonstrated over a fair sample of a social worker's work. There is no set definition of 'fair sample', but it suggests a sample sufficient to show the social worker's usual standard of work over a period of time.

The guidance also explains that single episodes or incidents do not normally suggest a social worker lacks the knowledge or skills to be competent. However, in exceptional circumstances, a single episode or incident could happen because of a lack of knowledge or competence in a fundamental principle of social work. This may raise concerns for public safety.

The case examiners have seen examples of cases, where statutory visits were overdue on 11 of the social worker's cases along with four cases where tasks or paperwork had not been completed within timescales. The case examiners note that the social worker was in their ASYE, and they had a smaller caseload than the average social worker. The case examiners note that the concerns appear to have been raised in respect of the social worker's practice over a period of 5 months and that they were with their first employer in a social work capacity for a period 10 months.

The case examiners are satisfied that adjudicators would consider the above to be a fair sample of work over a period of time.

The case examiners have seen the chronology provided by the employer, which also provides information about the support offered to the social worker. The case examiners have also seen emails to the social worker offering direction on cases. The case examiners

have seen the ASYE assessor's report which indicates that despite the support and direction offered to the social worker, the social worker was not able to meet the required standards in order to pass their ASYE.

The case examiners are satisfied that adjudicators would consider the social worker's alleged conduct engages the statutory ground of lack of competence and capability.

Impairment

Personal element

In considering the personal element of impairment, the case examiners have considered the test for personal impairment as set out in the case examiner guidance (2022), namely whether the conduct is remediable; whether the social worker has undergone remediation and demonstrated insight; and whether there is a likelihood the matters alleged will be repeated. The case examiners should also look at whether the social worker has admitted the allegations, any relevant previous history and any testimonials that have been provided.

The case examiners note there is no previous history in respect of this social worker.

The social worker has accepted the concerns as they acknowledge that they made mistakes. However, their insight is limited as in their submissions, they are defensive and talk of not having the appropriate support, that they were given cases that were complex, one in particular that they found very challenging and that they were bullied by their manager. However, the case examiners note that the social worker states, *'I recognise the concerns raised but believe they do not encapsulate the entirety of my professional contributions'* and *'I acknowledge the mistakes I made during my initial years as a newly qualified social worker and am now acutely aware of their impact on the lives of those I sought to help'*.

In terms of remediation, the case examiners note that the social worker has been subject to an interim suspension order for the last 18 months, which has prevented them from working in a social work capacity. However, the social worker states that they have *'extensively researched the importance of record keeping by studying serious case reviews...this process has made me aware of the profound impact that inadequate record keeping can have on the wellbeing of service users'*. The case examiners note that they have no independent verification of the research undertaken by the social worker.

As the social worker has not been in employment, the case examiners do not have any testimonials of the social worker's current work. However, the case examiners note that concerns were raised by more than one employer.

Due to the limited insight and remediation, the case examiners consider that there is a risk of repetition.

Public element of impairment

The case examiners next considered whether the social worker's alleged 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.

A social worker who is found to have failed to have met the practice standards expected of them over a period of time has the potential to undermine public confidence. Members of the public may be concerned if the social worker were to practice unrestricted and would expect the regulator to have oversight of their practice.

The case examiners are of the view that in these circumstances, members of the public would expect a finding of impairment if the concerns were found proven.

Accordingly, the case examiners are satisfied that there is a realistic prospect of adjudicators making a finding of current impairment.

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	☒
Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

The case examiners have noted that the social worker has not explicitly indicated to the regulator if they accept their fitness to practise is 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 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 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.

Interim order

An interim suspension order is already in effect and is due to expire on 14 March 2024.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☒
	Suspension order	☐
	Removal order	☐
Proposed duration	18 months	

Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance (December 2022) and reminded themselves that the purpose of sanctions is not to punish the social worker but 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 options in ascending order of seriousness.

The case examiners are of the view the social worker's impairment continues to pose some current risk to public safety as there is insufficient evidence at this time of the social worker having developed full insight into their lack of competence and have been unable to demonstrate that they can practise safely due to the interim suspension order. Given this, the outcomes of no further action, advice, or warnings are considered inappropriate on the basis that these will not sufficiently protect the public.

The case examiners next considered a conditions of practice order being imposed on the social worker's registration. They concluded that this was the most appropriate and proportionate outcome. Conditions will provide the social worker a supportive framework within which to return to practice while protecting the public. It will also enable the regulator to maintain oversight and supervision of the social worker's practice. The case examiners note that the social worker is not currently in social work employment, however the evidence suggests that the social worker would like to return to practice. Further the social worker states, *'I am open to additional suggestions and guidance to continue*

improving my practice'. A conditions of practice order will provide a supportive framework for the social worker to return, and it would also serve to protect the public.

The case examiners did consider whether the next available sanction, suspension, would be more appropriate in this case. However, it was their view that suspension would be punitive, and it would risk further deskilling the social worker and be disproportionate as public protection could be achieved by a conditions of practice order.

In terms of duration, the sanctions guidance states that conditions can be imposed for up to three years at a time. When considering the timescale for the conditions, the case examiners have determined that a period of 18 months would be appropriate in this case. This period would allow the social worker to demonstrate that they have fully understood their responsibilities in terms of practising safely. Eighteen months will allow the social worker sufficient opportunity to return to a registered role and demonstrate they can practise safely. This period would allow the social worker to demonstrate over a sustained period, including at least one appraisal cycle that they had reached the necessary standards required of social workers. The case examiners consider a longer period unnecessary and disproportionate at this stage.

The case examiners will notify the social worker of their proposals in respect of conditions of practice and seek the social worker's agreement to dispose of the matter accordingly. Should the social worker 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.

The case examiners will give the social worker 21 days to respond to the offer of an accepted disposal. 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 conditions of practice

Conditions 1-16 (inclusive) should be in place for an 18-month period. In accordance with paragraph 15 of Schedule 2 of The Social Workers Regulations 2018, the regulator must review the conditions of practice order before its expiry. The social worker and/or Social Work England can seek early review if new evidence becomes available to suggest the current order needs to be varied, replaced or removed.

1. You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your

employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.

2. You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter or workplace supervisor referred to in these conditions.
3.
 - (a) At any time, you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter nominated by you and approved by Social Work England. The reporter must be on Social Work England's register.
 - (b) You must not start or continue to work until these arrangements have been approved by Social Work England.
4. You must provide reports from your reporter to Social Work England every 4 months and at least 14 days prior to any review and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.
5. You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.
6. You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.
7. You must inform Social Work England if you apply for social work employment / self-employment (paid or voluntary) outside England within 7 days of the date of application.
8. You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within 7 days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].
9. a. At any time you are employed, or providing social work services, which require you to be registered with Social Work England; you must place yourself and remain under the supervision of a workplace supervisor nominated by you and agreed by Social Work England. The workplace supervisor must be on Social Work England's register.

- b. You must not start or continue to work until these arrangements have been approved by Social Work England.
10. You must work with your workplace supervisor to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:
- Record keeping
 - Completing visits within statutory timescales
 - Time management
11. You must provide a copy of your personal development plan to Social Work England within 6 weeks from the date these conditions take effect and an updated copy 4 weeks prior to any review.
12. You must provide reports from your workplace supervisor to Social Work England every 4 months and at least 14 days prior to any review, and Social Work England will make these reports available to any reporter referred to in these conditions on request.
13. You must only work as a social worker in premises where at least 2 other social workers are employed at any one time and are on the premises daily.
14. a. You must make arrangements for an audit to be carried out by your workplace supervisor in relation to your record keeping and documentation, and undertaking visits within timescales. The audit must be signed off by your workplace supervisor.
- b. You must provide a copy of this audit to Social Work England every 4 months and at least 4 weeks prior to any review or, alternatively, confirm that there have been no such cases.
15. You must read Social Work England's 'Professional Standards' July 2019, and provide a written reflection 6 months after these conditions take effect, focusing on how your conduct in the matters relating to this case, namely record keeping, lack of documentation and completing visits all within timescales, was below the accepted standard of a social worker, the potential impact of this, and the steps you will take to avoid repetition. The reflection should be a minimum of 1,000 words.
16. You must provide a written copy of your conditions, within 7 days from the date these conditions take effect, the following parties that your registration is subject to the conditions listed at 1-15, above:

- Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.
- Any locum, agency or out-of-hours service you are registered with or apply to be registered with in order to secure employment or contracts to undertake social work services whether paid or voluntary (at the time of application).
- Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application).
- Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.

You must forward written evidence of your compliance with this condition to Social Work England within 14 days from the date these conditions take effect.

17. You must permit Social Work England to disclose the above conditions, 1-16, to any person requesting information about your registration status.

Response from the social worker

The social worker responded on 18 April 2024 and confirmed that they had read and understood the terms of the proposed disposal and they accepted the proposal in full.

Case examiners' response and final decision

The case examiners were satisfied that the social worker had read and accepted the proposed disposal of a conditions of practice order in full.

The case examiners have again considered the public interest in this matter and, as they have not been presented with any new evidence that might change their previous assessment, they are satisfied that it remains to be the case that the public interest in this case can be fulfilled through the accepted disposal process.

The case examiners therefore direct that Social Work England implement a conditions of practice order for a duration of 18 months.

The case examiners note that there is an interim order currently in effect, which will be revoked upon enactment of the agreed order.