

Case Examiner Decision
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SW142114
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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	5 December 2024
	Accepted disposal proposed - warning order (3 years)
Final outcome	16 December 2024
	Accepted disposal - warning order (3 years)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators. [REDACTED]
1. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.
2. For regulatory concern 1, 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 3 years. The social worker accepted the case examiners' proposal in full.

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 **blue** will be redacted only from the published copy of the decision and will therefore be shared with the complainant in their copy. Text in **red** will be redacted from both the complainant's and the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker and subsequently by the social worker's current employer.
Date the complaint was received	5 November 2023 - self referral 21 November 2023 - employer
Complaint summary	The social worker self-referred informing the regulator that they had driven over the legal prescribed limit for alcohol, whilst driving with [REDACTED] in the car and colliding with another vehicle. The social worker was subsequently arrested and convicted of the criminal offence of driving a motor vehicle when alcohol levels are above the legal limit. [REDACTED] [REDACTED]

Regulatory concerns and concerns recommended for closure

Whilst registered as a social worker;

(1) On 30 November 2023, you were convicted of the criminal offence of driving a motor vehicle when alcohol levels are above the legal limit.

[REDACTED]

Grounds of impairment: The matter outlined in regulatory concern (1) amounts to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

Your fitness to practice is impaired by reason of your conviction or caution in the United Kingdom for a criminal offence and/ or misconduct.

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 1 being found proven, that this concern could amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker;

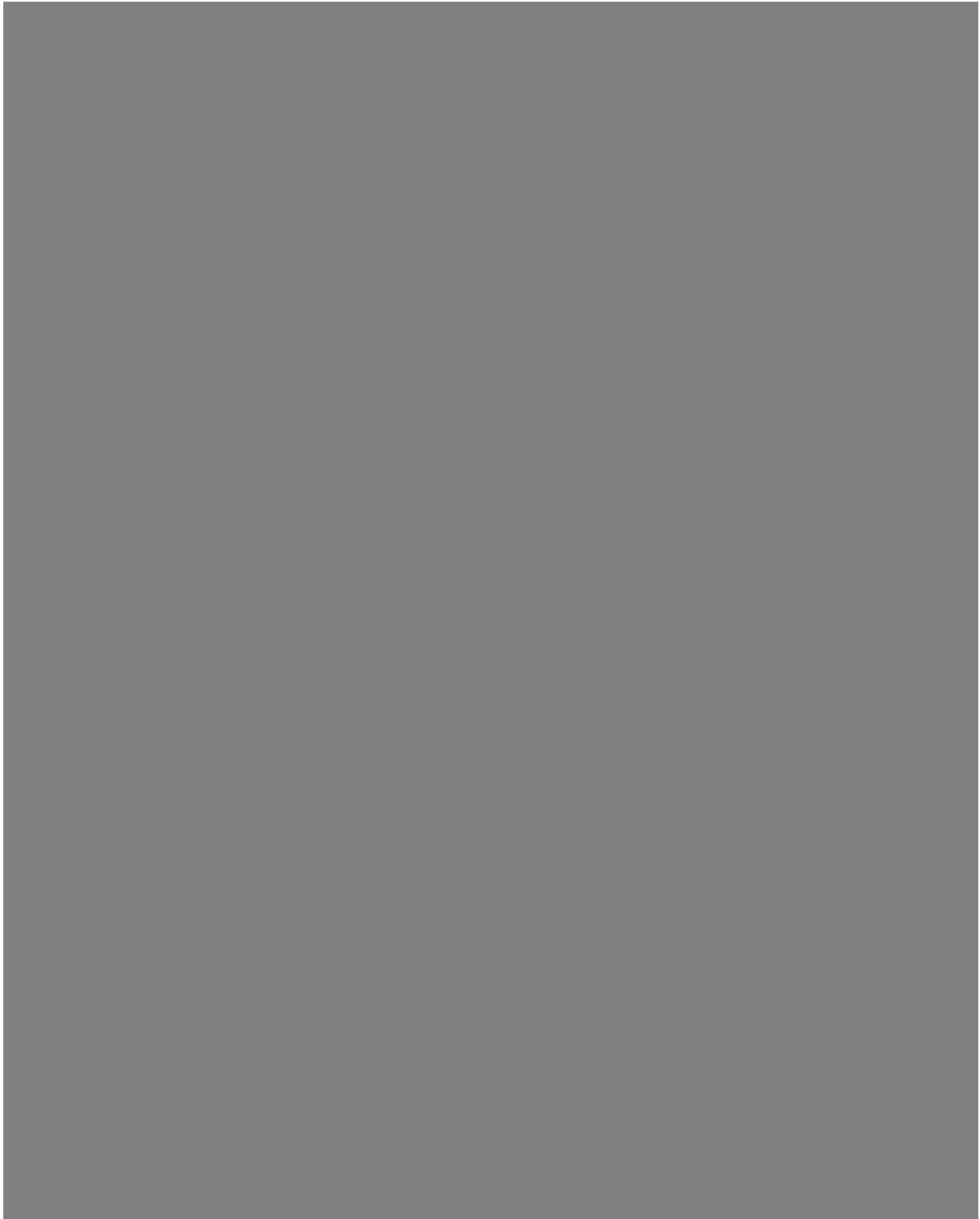
(1) On 30 November 2023, you were convicted of the criminal offence of driving a motor vehicle when alcohol levels are above the legal limit.

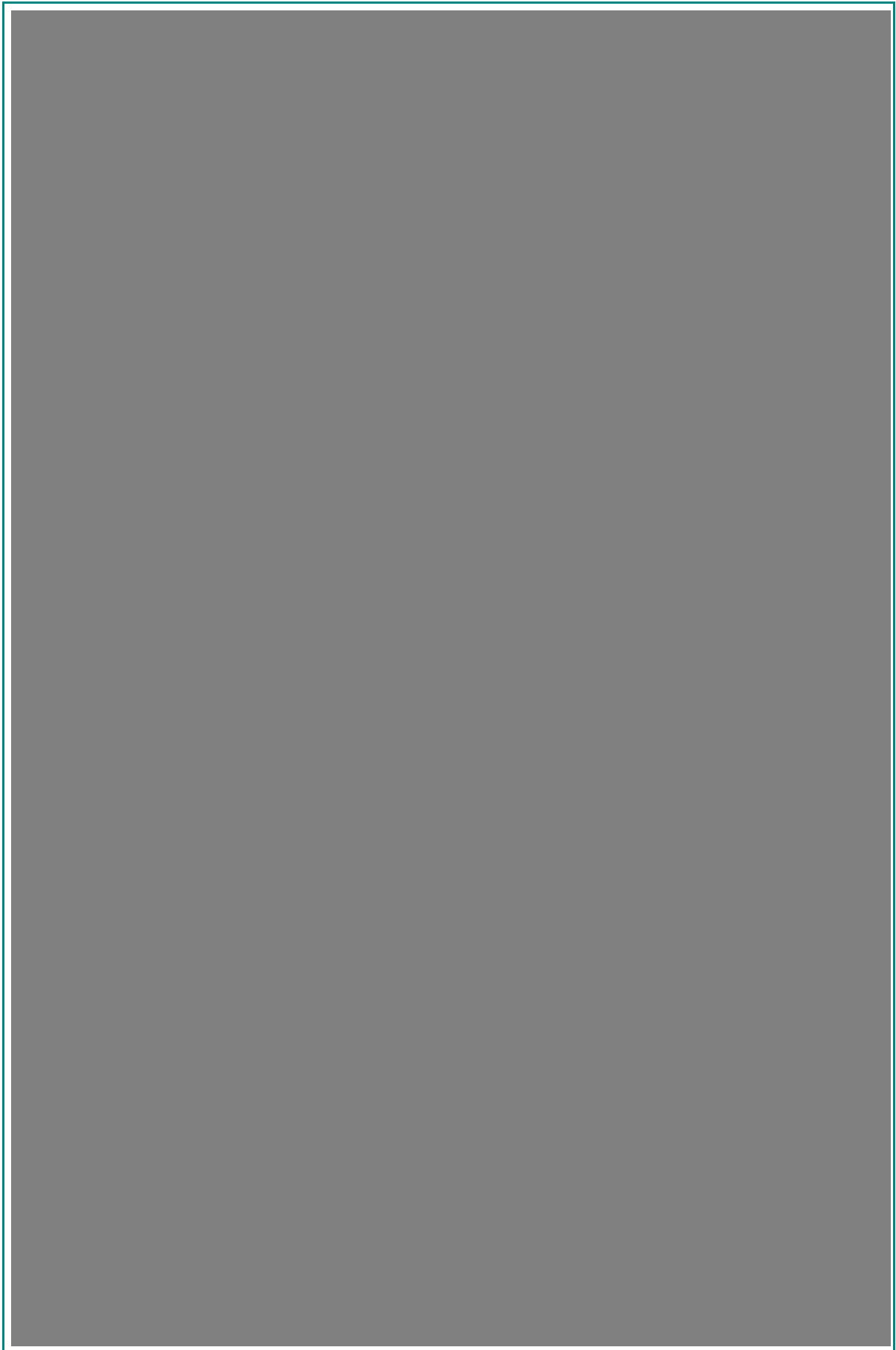
The case examiners have seen the certificate of conviction and notice of financial penalty both dated 30 November 2023. The evidence shows that social worker was convicted for driving a motor vehicle whilst the proportion of alcohol in the social worker's breath was over the prescribed limit, namely 99 microgrammes of alcohol per 100 millilitres of breath, whereas the legal limit is 35 microgrammes. The social worker received a ban from driving for 24 months, which would be reduced by 24 weeks if the social worker satisfactorily completed a drink awareness course. The case examiners note the statement of the attending police officer, which advised that the social worker

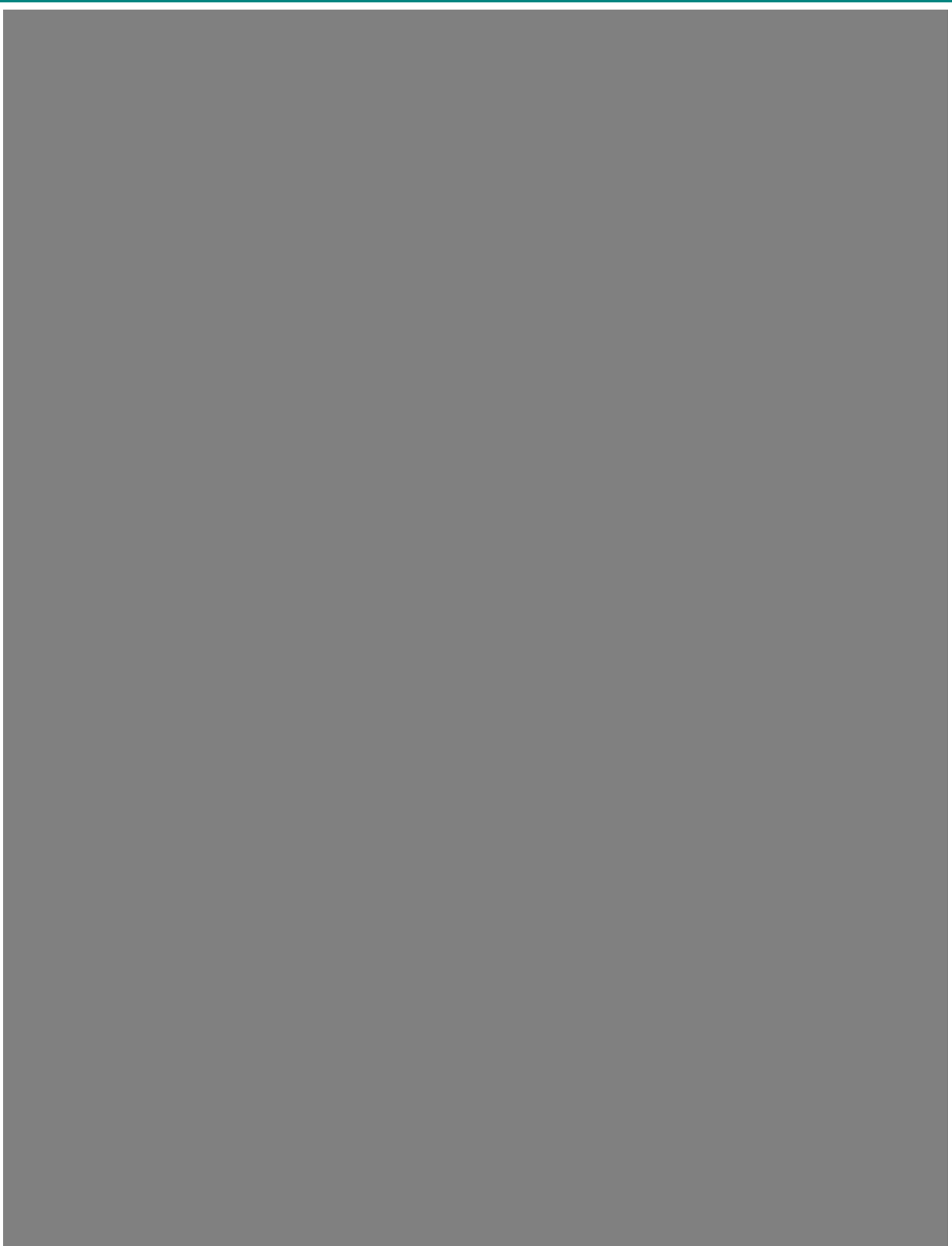
had a minor in the car with them at the time, [REDACTED] and the social worker had a road traffic collision with a stationary vehicle.

The evidence suggests that the social worker was convicted of the offence as set out in the regulatory concern.

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







Grounds

A conviction or caution in the United Kingdom for a criminal offence.

As outlined above in the facts section of the case examiners' determination, they have seen documentation confirming the social worker's conviction.

On this basis, the case examiners are satisfied there is a realistic prospect of adjudicators finding that this engages the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

Impairment

Personal element of impairment

In considering the personal element of impairment, the case examiners have considered the test 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 are of the view that the conduct did not arise from a character flaw such as dishonesty, and as such it is possible to remediate in a variety of ways such as additional training and reflection.

The social worker has shown significant insight into their alleged conduct. They expressed remorse and took responsibility for their actions and their insight appears to have been developing from an early stage, as they immediately informed their employer and the regulator. Whilst the social worker has completely accepted their actions were unacceptable, they have provided some context to the background leading up to the concerns. They have advised that they faced a series of challenging personal circumstances, [REDACTED], they now recognise that they had been using alcohol as a coping mechanism.

However, they have provided full and deep insight into the incident. They state, *'I am thoroughly ashamed of what I did'* and *'I am just so sorry, and I wish I could turn back the clock...I don't think the guilt will ever leave me. The thought of "what if I'd hurt anyone, [REDACTED] overwhelms me'*. The social worker recognises the wider impact on the public and public confidence as they state:

- *'to know I could have harmed someone in the incident genuinely causes me to feel very ashamed'*
- *'I know this incident has risked your confidence and trust in me'*
- *'High morals, values and ethics are expected of me in my professional life, they are regulated by my employer and of course the governing body, I also expect*

them of myself at all times. I have let down my employers my family and friends, the families I work with on a daily basis, for that I am truly sorry'

In terms of remediation, since this time the social worker has [REDACTED] [REDACTED] they have tried to access other services for support, and they have found alternative methods of coming to terms with their [REDACTED]. They have provided full reflections to Social Work England looking at what led to the incident and how their challenging personal circumstances at the time had led them to their decision on the day. They have been open with their employer and reflected on the incident. The case examiners have also had sight of certification that shows the social worker has completed the drink driving course that was offered by the court.

The case examiners have seen information from the social worker's current employer. The employer has confirmed that there are no fitness to practise concerns in respect of the social worker. Further, they have confirmed the social worker has fully engaged throughout with support in the workplace to manage [REDACTED] and that they continue to access support from the employer on an ongoing basis to manage this. [REDACTED]

Taking all of the above into consideration, the case examiners have concluded that whilst the alleged conduct was serious, the social worker has demonstrated insight and reflection and sought support to reduce the factors that may have influenced their decision making that day. Therefore, the case examiners are of the view that the risk of repetition is low.

Public element

The case examiners next considered whether the social worker's actions have the potential to undermine public confidence in the social work profession, or the maintenance of proper standards for social workers. 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 when assessing the public interest have had regard to the drink and drug driving policy (December 2022) which guides the case examiners to consider aggravating and mitigating factor when assessing how seriously the public would view the alleged conduct.

In this instance, the case examiners have identified the following aggravating factors:

- The social worker was transporting [REDACTED] at the time of their offence.
- The social worker's level of alcohol was significantly over the legal prescribed limit.
- The social worker received a ban from driving of over 12 months and this is still in effect.
- There was a road traffic collision.

The case examiners have then considered the following mitigating factors:

- This evidence suggests that this was the social worker's first offence.
- The social worker has demonstrated remorse and insight into their behaviour.
- There is evidence to suggest that the social worker is of otherwise good character.
- The social worker has undertaken voluntary remediation.



Although the case examiners are satisfied the social worker has learnt from the incident and is unlikely to repeat this conduct, they remind themselves that the social worker's actions had the potential to harm others. The case examiners accept that no harm was caused as a result of the social worker's actions. However, they are mindful of the case examiners guidance (December 2022) which states that potential harm should be considered as serious as actual harm. In this instance, the social worker could have harmed anyone on the road at the time.

The case examiners consider that members of the public may accept that the social worker had [REDACTED] and that they were facing a set of challenging personal circumstances. However, the case examiners are of the view that a member of the public may remain concerned that the social worker took the decision to drive whilst the level of alcohol in their body was significantly over the legal limit, they had a passenger in their car and had a collision with a stationary vehicle.

The case examiners consider that public confidence in the social work profession and the regulator would be undermined if a finding of impairment were not made.

The case examiners are satisfied that there is a realistic prospect of the 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 whilst the social worker accepts the facts, they have indicated 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 of the concern.
- The social worker is clear that they accept that their practice fell short of the standards expected of them. In their written statement to the employer's investigation,

the social worker stated, *'I sincerely acknowledge my mistake and understand the implication on my practice'*.

- The case examiners are of the view that the risk of repetition is low, therefore the main purpose of any sanction would be to set out the expectations of social workers and to satisfy the public interest in this case.
- The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest limb of impairment 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	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	3 years	

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 sanction is not to punish the social worker but to protect the public and the wider public interest. They have also considered the drink and drug policy guidance (December 2022) which states, 'in determining a sanction, the decision makers should also take account the relevant aggravating and mitigating factors'.

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 considered taking no further action. They note paragraph 95 of the sanctions guidance which states, 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 guidance provides the example of when a social worker has accepted a caution.

Paragraph 103 of Social Work England's case examiner guidance states that 'the issuing of a caution acknowledges the admission of guilt and suggests the offence is of a lower severity.' In conjunction with the sanctions guidance, this suggests that criminal matters of lower severity may fall into the 'rare' category where a finding of impairment alone would be sufficient to protect the public or address the public interest. As drink driving offences are dealt with by way of conviction, it appears

reasonable to conclude that, in line with the case examiner and sanctions guidance documents, this is not likely to indicate the offence is of a 'lower severity' and therefore not a 'rare' instance. The case examiners therefore concluded that this would not be a rare instance where taking no further action would be appropriate.

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. However, the case examiners consider that advice would not be sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners next gave careful consideration to whether a warning order might be suitable, given that it would show clear disapproval of the social worker's conduct. The case examiners concluded there is a low risk of repetition in this case, and their guidance suggests that warnings may be appropriate in such circumstances. The case examiners determined that a warning was the most appropriate and proportionate response in this case and was the minimum necessary to protect the public and the wider public interest. A warning will serve as a signal that any repetition of the behaviour that led to the concerns is highly likely to result in a more severe sanction.

In considering the duration of the warning, the case examiners have had regard to the sanctions' guidance which states, '1 year may be appropriate for an isolated incident of relatively low seriousness. In these cases, the primary objective of the warning is to highlight the professional standards expected of social workers. 3 years may be appropriate for more serious concerns. This helps to maintain public confidence and highlight the professional standards. The period also allows more time for the social worker to show that they have addressed any risk of repetition.'

The case examiners consider three years to be proportionate 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 note that in line with the drink and drug driving policy that there were a number of aggravating factors in this case which increases the level of seriousness. However, they are satisfied that the social worker has provided full reflections and undertaken remediation to avoid the conduct being repeated. Therefore, the primary purpose of the warning is to highlight the professional standards expected of social workers. The case examiners do not consider it to be of relatively low seriousness and therefore do not consider that one year would be sufficient. However, the case examiners do not consider that the matter fell marginally short of the need to restrict practice, and therefore five years would be disproportionate and punitive. To confirm, the case

examiners are satisfied that a warning of three years duration is the proportionate sanction.

The case examiners did go on to consider whether the next sanctions, conditions of practice and suspension, were more appropriate in this case. As the case examiners consider the risk of repetition is low, a conditions of practice order would not be necessary in this case and are more commonly suited to cases relating to health, competence or capability. The case examiners considered that suspension from the register would also be a disproportionate and punitive outcome.

To conclude, the case examiners have decided to propose to the social worker a warning order of three-years duration. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. 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:

Driving whilst under the influence of alcohol is a serious matter. Your decision to drive on the occasion that led to your conviction, demonstrated a serious lack of judgement. You put yourself and members of the public at risk of harm.

Your conviction 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 criminal offences or matters brought to the attention of the regulator are likely to result in a more serious outcome.

Response from the social worker

The social worker responded on 10 December 2024 and confirmed that they had read and understood the terms of the proposed disposal. They confirmed that, *'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 are satisfied that the social worker has read and accepted the proposed disposal of a three year warning order.

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 warning order of three years duration.