

Case Examiner Decision
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FTPS-17332

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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	30 April 2024
	Information requested
Preliminary outcome	04 October 2024
	Accepted disposal proposed - removal order
Final outcome	09 October 2024
	Accepted disposal – removal order

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.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of a conviction or caution in the United Kingdom for a criminal offence.
3. 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 by way of accepted disposal in the form of a removal order. The social worker accepted this proposal and the terms in full on 04 October 2024.

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 i [REDACTED] 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 the social worker's former employer, Nexus Fostering and by way of a self-referral by the social worker.
Date the complaint was received	The former employer on 14 April 2020 Self-referral on 16 April 2020
Complaint summary	On 27 November 2023, the social worker was convicted of offences concerning the supply of class A and B drugs. The social worker received a two-year prison sentence, suspended for 12 months.

Regulatory concerns

The regulatory concern for this case is as follows:

- 1. On 27 November 2023, you were convicted at Cambridge Crown Court for the following offences:**
 - a) *Concerned in offer to supply – cocaine*
 - b) *Concerned in making of an offer to supply to another a controlled drug of Class B – cannabis*

Your fitness to practise is impaired by reason of a conviction or caution in the United Kingdom for a criminal offence at regulatory concern 1.

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 are aware of the need to consider cases expeditiously and the need to ensure fairness to all parties. However, the case examiners consider, bearing in mind their investigatory function and statutory duty, that further information is needed to be able to reach a decision on this case.

The case examiners have noted the case examiner guidance, which states they should only request further information if it would not be possible to reach a decision without it. They are satisfied that their chosen course of action is consistent with the guidance.

The further information that the case examiners require is in the form of legal advice. The process for this is that the case examiners record their intention to request legal advice within their written determination, and then request the specific advice separately in writing via the case examiner operations team.

Having followed this process, the case examiners will now await legal advice before continuing with their consideration of this case.

October 2024

The case was returned to the case examiners with the requisite legal response to enable consideration of this case.

The case examiners have made a clerical amendment to the regulatory concern to include the full wording of the statutory ground as per the regulations (a conviction or caution in the United Kingdom for a criminal offence). The case examiners do not consider this to be a material change and as such there is no need for the social worker to be provided with an opportunity to comment prior to the case examiners making their decision.

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

1. On 27 November 2023, you were convicted at Cambridge Crown Court for the following offences:

- a) *Concerned in offer to supply – cocaine*
- b) *Concerned in making of an offer to supply to another a controlled drug of Class B – cannabis*

The social worker was arrested on 16 March 2020, in relation to drug offences which involved their then partner, adult A.

The circumstances leading to the arrest are as follows:

On 23 December 2019 at 2341 hours, during a police search of a vehicle containing two male suspects (one being adult A), a large quantity of cash and small amount of a class A drug were recovered. Adult A claimed the monies belonged to the social worker; a loan to purchase a new car. During police interview the social worker states that monies were a

combination of £6000 savings and a £5000 loan, taken out in June or July, to buy the car but the sale fell through. The social worker denied knowledge of adult A being involved in criminal activity.

Disclosures obtained by the regulator from the police include a case summary, crime report, charge sheet and records of interviews with the social worker. There is evidence of exchanges of text messages between the social worker and adult A that suggest they were involved in facilitating the supply of drugs. [REDACTED]

The case examiners have had sight of the certificate of conviction and the Judge's sentencing remarks made on 11 January 2024. These confirm that on 27 November 2023, the social worker was found guilty of the offences identified at regulatory concerns (a) and (b) and on 1 January 2024, the social worker was given a 2-year prison sentence, suspended for 12 months. The social worker pleaded not guilty to all charges made against them.

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

Grounds

With regards to both parts of the regulatory concern, the case examiners have found a realistic prospect of the facts being found proven. They must next consider whether, if proven, the concerns raised would amount to an allegation of impaired fitness to practise by reasons of the statutory ground.

For regulatory concern 1 the statutory ground is a conviction or caution in the United Kingdom of a criminal offence.

The case examiners have had sight of the official court documentation as detailed above, and they are satisfied that the documentation provided sufficiently evidences the conviction.

The case examiners are satisfied there is a realistic prospect of adjudicators establishing the statutory ground.

Impairment

Assessment of impairment consists of two elements:

1. The personal element, established via an assessment of the risk of repetition.

2. The public element, established through consideration of whether a finding of impairment might be required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers.

Personal element

With regards to the concerns before the regulator, the case examiners have given thought to their guidance, and they note that they should give consideration to whether the matters before the regulator are easily remediable, and whether the social worker has demonstrated insight and/or conducted remediation to the effect that the risk of repetition is highly unlikely.

Whether the conduct can be easily remedied

A conviction relating to drug offences is serious. The case examiners consider that remediation may, in theory, be possible if the social worker demonstrates genuine remorse and insight into the actions. However, given the nature and seriousness of the social worker's conviction, this may present a significant challenge to the social worker remedying to a position where the public would trust the social worker to practise.

Insight and remediation

The social worker does not accept personal impairment and does not believe they are a risk to the public. They have engaged in the fitness to practise investigation and have given an account of the circumstances at the time of their arrest, mitigating that they were in an abusive domestic relationship. The case examiners note that in June 2021 the social worker disclosed a history of abuse from adult A. Throughout the police investigation the social worker denied knowledge that adult A was involved in criminal activity.

The social worker clarifies the dates for the two drug offences as being a one singular event stating that *"I want to be clear this is not something I was actively involved in over a long period of time as the dates may suggest."*

The social worker submits that *"I fully accept how this looks and impacts the role of a social worker, and I am devastated to be in this situation."*

The case examiners have carefully taken into consideration the social worker's disclosures of being in an abusive relationship with adult A and that they may have been subject to coercive control. However, the court ultimately convicted the social worker of the offence cited in the regulatory concern, despite the mitigation the social worker presented, and the case examiners must not attempt to undermine the conviction. The case examiners note

that the social worker is appealing their conviction, but at this stage that has no bearing on the case examiners decision making.

The case examiners have had sight of information provided by the police, including a breakdown of the social worker's financial accounts. The police found that there was around £40,000 of money that was unaccounted for entering the social worker's bank account over a period of time. The case examiners have also had sight of messages that were recovered from the social worker's mobile phone. These give the clear impression that the social worker was actively involved in the illegal activity for which they were convicted. The case examiners reference this as evidence that significantly undermines the social worker's submissions where they assert that their involvement was minimal, pointing to a lack of insight.

The social worker appears to have some understanding of the impact their conviction could have on public confidence in the profession. They state: *"I have always accepted that since this case, my standards set by Social Work England have been jeopardised by my actions. I fully accepted the suspension and agreed it was the best outcome to investigate the case thoroughly."* However, within their submissions, the social worker has not taken the full opportunity to demonstrate true insight or depth of reflections about the seriousness of their conduct, and the potential impact their actions may have had on others, including the vulnerable families with whom they supported.

Thinking about objective evidence of remediation, positively the case examiners note that

[REDACTED] The social worker has also provided evidence of good feedback from service users and colleagues. The social worker remains passionate about returning to social work practice and informs that they have continued to keep abreast of research.

Risk of repetition

The case examiners acknowledge that the criminal offence occurred in 2019, and similar conduct does not appear to have been repeated. There is no previous history for the case examiners to take into account. The case examiners also note the positive feedback from families and colleagues that speaks to the social worker's good character and practice. However, the case examiners are not satisfied that the risk of repetition is negated by this information. The social worker has demonstrated limited insight into the part they played, and their reflections do not sufficiently address the wider impact of their conduct or what they would do differently if faced with a similar relationship / situation in the future.

Considering all the information available the information reviewed leads them to conclude that there is a risk of repetition.

Public element

The case examiners have 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.

The allegations relate to a conviction for a drug related crime. These are very serious, and the wider public are likely to consider the conduct, if proven, has the potential to undermine public confidence in the profession. Such conduct is certainly a significant departure from professional standards.

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 social worker was convicted for offences relating to the supply of illicit drugs. This conduct had the potential or may have caused, either directly or indirectly, psychological and/or physical harm to individuals by perpetuating a cycle of drug misuse and the associated risks with such behaviours. The case examiners also consider that the social worker's engagement in such criminal activity has the potential for risk to be widened to the vulnerable children and families, whom they may support. The social worker's actions bring into question their ability to make decisions in the best interests of service users, particularly if related to drug use. Furthermore, the alleged conduct may leave the social worker vulnerable to potential exploitation from associates within criminal circles.

Social workers are expected to behave in a manner that adheres to professional standards of conduct, which includes being open, honest and possessing prosocial values and integrity. The case examiners have concluded that the alleged conduct has the potential to undermine trust and confidence in the social work profession.

In a case of this nature, adjudicators may determine that the public would expect a finding of impairment. Furthermore, public protection and confidence in the profession and the regulator may be undermined if a finding of impairment was not made.

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	☐
	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 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 hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance. In reaching this conclusion, they noted the following:

- There is no conflict in evidence in this case and the social worker accepts the facts cited in the regulatory concerns.
- 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 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 to 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 order may be necessary for protection of members of the public	Yes	☒
	No	☐
An interim order may be necessary in the best interests of the social worker	Yes	☐
	No	☒

Interim order

The social worker is subject to an interim suspension order, from 18 August 2022 to 16 August 2025. The interim order does relate to the concerns that are subject of this report.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒
Proposed duration	Where a social worker is removed from the register, there is no defined end to the finding of impairment. A social worker that has been removed from the register may only apply to be restored to the register 5 years after the date the removal order took effect. The adjudicators will decide whether to restore a person to the register.	

Reasoning

Having found that a realistic prospect the social worker's fitness to practise is currently impaired, the case examiners then considered what, if any, sanction they should propose in this case. The case examiners have considered the Sanctions Guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction.

The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator and upholding proper standards of conduct and behaviour.

The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity.

In considering a sanction, the case examiners have considered mitigating and aggravating factors in this case:

Mitigating

- The employer provides positive comments about the social worker's professional performance whilst working with children and families.
- At the time of the alleged offence, the social worker may have been in an abusive relationship.

Aggravating

- The social worker has shown little insight into the alleged conduct and even with the passage of time, there appears to have been insufficient reflection and persistent lack of insight into their behaviours leading to the conviction. The social worker appears to have minimised their alleged actions and has not taken full personal responsibility.
- Full remediation is difficult due to the nature and seriousness of the concerns.

In determining the most appropriate and proportionate outcome in this case, the case examiners have considered the available options in ascending order of seriousness.

No Action

The case examiners conclude that the nature and seriousness of the social worker's alleged conduct has not been remediated. In the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

The case examiners have then considered whether to issue advice or a warning. They note that neither of these sanctions would restrict the social worker's ability to practise and, therefore, it is not appropriate where there is a current risk to public safety.

In relation to a warning, the case examiners had regard to paragraph 108 of the guidance, which reads:

A warning order is likely to be appropriate where (all of the following):

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

The case examiners do not consider that issuing advice or a warning would be sufficient to promote and protect public confidence in the profession. Such sanctions would not restrict

the social worker's practice; the social worker has demonstrated minimal insight, and the case examiners have concluded that the risk of repetition remains.

Conditions of Practice Order

The case examiners next considered a conditions of practice order. The case examiners have consulted paragraph 114 of the guidance which states:

Conditions of practice may be appropriate in cases where (all of the following):

- *the social worker has demonstrated insight*
- *the failure or deficiency in practice is capable of being remedied*
- *appropriate, proportionate, and workable conditions can be put in place*
- *decision makers are confident the social worker can and will comply with the conditions*
- *the social worker does not pose a risk of harm to the public by being in restricted practice*

The case examiners are mindful that the alleged conduct took place in the social worker's personal life and that no performance issues have been identified.

The case examiners acknowledge that the social worker's alleged conduct is not about their skill or performance as a social worker and consider that there are no identifiable areas of practice which might benefit from re-training. The matters subject of the concerns is a conviction for a serious offence; and the social worker has not provided evidence of sufficient remediation or insight within the documentary evidence. As stated previously, given the nature and seriousness of the social worker's conviction, this may present a significant challenge to the social worker remediating to a position where the public would trust the social worker to practise.

The case examiners determine that they cannot formulate conditions that would adequately address the risk posed by the social worker that would protect the public. Nor would conditions of practice address the public interest in this case.

Suspension Order

The case examiners went on to consider whether a suspension order might be an appropriate sanction. The case examiners have considered the guidance, which states:

Suspension may be appropriate where (all of the following):

- *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*

The guidance also states a suspension order may be appropriate where workable conditions cannot be formulated. In this instance, the case examiners consider the concerns represent a serious breach of the professional standards.

The case examiners note that it is around four years since the criminal conduct took place. Despite this, the social worker has not demonstrated sufficient insight into how their conduct may be viewed; neither have they considered the potential impact of their actions upon people they may work with, or on the wider public affected by drug related criminal activity.

The case examiners are aware that the social worker remains suspended by their employer and is subject to an interim suspension order until 16 August 2025.

Although the social worker has indicated a desire to return to social work, the case examiners consider that the nature and the seriousness of the matter cannot be fully remediated in a way that will protect the public and maintain public confidence in the profession. As such, they do not consider a suspension order to be appropriate.

Removal Order

The case examiners have therefore considered a removal order.

Paragraph 148 of the sanction's guidance states that:

'A removal order must be made where the decision makers conclude that no other outcome would be enough to (do one or more of the following):

- *protect the public*
- *maintain confidence in the profession*
- *maintain proper professional standards for social workers in England'*

Paragraph 149 of the same guidance gives examples of cases where a removal order may be appropriate, and the case examiners note that this includes criminal convictions for serious offences.

The case examiners did not consider that public protection, public confidence in the profession, or the maintenance of proper professional standards, could be satisfied by any sanction less than a removal order. It is considered that a fair minded and reasonable member of the public would be shocked and disturbed by the serious nature of the social

worker's conviction and consider it wholly incompatible with the role of a social worker. As such, the case examiners consider that it would be expected that the social worker is removed from the register. The case examiners consider that the only appropriate and proportionate sanction in this case is a removal order.

To conclude, the case examiners have decided to propose to the social worker a removal order. 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 28 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.

Response from the social worker

The social worker provided a response on 04 October 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 on 04 October 2024 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 with a proposed accepted disposal, rather than through a public hearing. They proposed a removal order which social worker has accepted.

In light of the social worker's acceptance of the removal order, 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 an accepted disposal – removal order 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 removal order is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.