

Case Examiner Decision
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SW146473
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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	8 January 2025
	Accepted disposal proposed - warning order (1 year)
Final outcome	28 January 2025
	Accepted disposal - warning Order (1 year)

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 ground of misconduct.
3. 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 1 year. The social worker accepted this proposal.

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 the social worker's former employer, Independent Social Workers Partnership
Date the complaint was received	5 September 2023
Complaint summary	Concerns were raised about the social worker's conduct while supervising a family after one of the children had fallen from a window. The social worker was asked to go to the house to relieve police officers who were at the house and ensure that no harm came to the three other children.

Regulatory concern

On or around 29 August 2023 and whilst registered as a social worker, you:

1. Did not respond to a safeguarding risk upon becoming aware that Child A was left locked in his bedroom.

The matter outlined in regulatory concern 1 amounts to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Preliminary issues

Investigation		
Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?	Yes	☒
	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 those concerns could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

On or around 29 August 2023 and whilst registered as a social worker, you:

- Did not respond to a safeguarding risk upon becoming aware that Child A was left locked in his bedroom.*

The case examiners have been provided with the detailed report completed by the social worker, whilst supervising the family of Child A. Child A was a three year old child, whose twin brother had fallen from the window, leading to concerns about the mother's ability to supervise and keep her children safe.

The report sets out that the social worker arrives at the house at 4.26am and waits for the family to wake up. At 8.32am, the social worker observes the mother taking toast in to Child A and then locking them in their bedroom to eat. At 8.35am, the mother demonstrates to the social worker that she cannot lock Child A's bedroom window

and then locks the bedroom door again to keep Child A inside. At 8.47am, the mother unlocks the bedroom door but two minutes later locks Child A inside again, stating she cannot supervise them and the other children and they cannot climb up to the window as their brother had. Child A remained locked in their room until 9.54am, when the mother goes up to check on Child A and returned at 10.04 am without Child A. Child A remains locked in their room from 10.04 until 10.36 when the mother goes into Child A's room and is joined by the social worker and one of the siblings, to watch television. Child A is locked in their room alone from 11.53 until 1.19pm apart from brief checks by the mother to see whether their nappy needs changing or to respond if they cry. At 1.19pm, Child A is taken some lunch and locked in their room to eat alone and appears to be left locked in the room until the social worker leaves the house at 2.26pm.

The case examiners are of the view that locking a three year old child in a room for extended periods was a serious safeguarding risk. Regardless of the significant emotional impact of such treatment, the physical risk of harm to a young child is substantial. Child A was locked into a room where the bedroom window could not be secured and where their twin sibling had fallen from. Whilst the mother stated Child A could not climb in the same way, they may well have learnt to climb, given the extended periods they spent alone. Child A was left to eat two meals alone, if they had choked there would be no-one to observe this and intervene. It is unclear what Child A was doing when left in their room, there could have been a number of hazards within the room such as furniture/television to pull down and hurt themselves with.

There is no record in the report of the social worker challenging the mother or explaining the risks for Child A in being locked in their room. The social worker admits they did not contact a supervisor for advice, nor report this as an urgent concern. They state that the police who were present when they arrived at the house were aware of Child A being locked in his bedroom and did not appear concerned by this. The police who arrived at the family home as the social worker left were very concerned by the child being locked in the room, as was the allocated social worker for the children, upon learning of this.

The case examiners are satisfied there is a realistic prospect of this regulatory concern being found proven, should the matter go forward to adjudicators.

Grounds

The case examiners are aware that there is no legal definition of misconduct, but it generally would consist of serious acts or omissions, which suggest a significant departure from what would be expected of the social worker in the circumstances.

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following Social Work England professional standards, which were applicable at the time of the concerns.

As a social worker, I will:

3.4 Recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families and their support networks.

3.8 Clarify where the accountability lies for delegated work and fulfil that responsibility when it lies with me.

3.9 Make sure that relevant colleagues and agencies are informed about identified risks and the outcomes and implications of assessments and decisions I make.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

The case examiners consider that the social worker's conduct in this case represent a basic failure to safeguard, one of the central tenets of social work practice. They acknowledge that the social worker was completing their Assessed and Supported Year in Employment (ASYE) and was newly qualified, having been practising for 5 months at the time of the incident of concern. However, the case examiners are of the view that this safeguarding issue was not nuanced or complex. The case examiners take the view that it is likely that people without a qualification in social work could recognise the immediate danger to Child A. The case examiners have been provided with evidence that the social worker's line manager was available to call throughout the shift and if the social worker was unsure or cautious of challenging, they had the opportunity to ask for advice and guidance at any point during their work with the family. The case examiners consider that the social worker's omissions were particularly serious and could have resulted in significant harm.

The case examiners are satisfied there is a realistic prospect of this matter being found by adjudicators to amount to the statutory ground of misconduct.

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

The case examiners are satisfied that the conduct in this case can be easily remedied. The case examiners are mindful that the concern relates to one family, and they are satisfied that the available evidence does not suggest any wider issues with the social worker's practice. Instead, the evidence would appear to suggest that this was an error of professional judgement, and the case examiners consider that this can be remedied through reflection and relevant training.

Insight and remediation

The case examiners recognise that the social worker accepted early on that they had not handled the situation appropriately and had been influenced by the police apparently being satisfied with Child A being locked away. The social worker also acknowledged that they had been wary of upsetting the mother by challenging them, but they knew they should have called a manager for guidance and they would do this in the future. Their initial reflections, as reported by the former employer appeared to recognise the risk of emotional harm.

The social worker was dismissed by their employer due to this incident and has not practised in social work since, they are waiting for the outcome of the regulator's investigation before they return to the profession. This has restricted their ability to evidence that they have implemented their learning from this incident and have practised without concern since.

However, the case examiners have been provided with submissions from the social worker via their representative and a reflective account written by the social worker. The case examiners recognise that the social worker was newly qualified and carrying out shifts out of hours, working alone, which may not be the ideal context for learning and developing their social work knowledge. With this context noted, the social worker also submits they understand that the key issue in this situation and moving

forward in their career was that they did not check with their manager or a more experienced colleague when they were not sure how to respond.

The social worker's representative states that *"having recognised, through this process, the lack of opportunity she had at ISWP to work with a regular caseload of specific service users or work closely alongside and in conjunction with more experienced social workers, she is very keen to look at alternative options for her ASYE that will ensure she has more exposure to the fundamentals of good social work"*. This suggests the social worker is committed to ongoing learning and development to ensure there is no repetition of this concern.

The social worker has carried out continuing professional development (CPD), looking at serious case reviews and identifying themes and lessons to learn from. They have provided the case examiners with their reflections and have acknowledged that the mistake they made could have led to a much more serious outcome. They have reflected upon how *"a lack of information sharing is a common factor in Serious Case Reviews. In Child A's case, I should have...reported to my line manager straight away after witnessing for myself that Child A was being locked [sic]"*. The social worker has also used directed reading to think about how they could challenge safeguarding issues like this in a way which encourages co-operation and feels supportive to the parent. This detailed reflection supports the submission that the social worker has learnt from this mistake and will not repeat it.

Risk of repetition

Whilst the case examiners do not have any recent evidence of the social worker's practice as they are currently working outside the social work profession, they have been presented with feedback from the social worker's former line manager, who was overseeing the ASYE. The feedback is clear that the social worker was progressing well otherwise in their role and there were no wider concerns about their ability to safeguard. Additionally, a reference has been provided by a manager who oversaw the social worker's practice during their placement with older people, which is positive about their skills and ability to keep adults safe.

Given the social worker's reflection and CPD, evidencing their insight and remediation, along with the acknowledgement that the social worker was newly qualified and developing their confidence and understanding, the case examiners are satisfied that the risk of repetition is low.

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 case examiner guidance sets out that *“some concerns are so serious that if proven, a finding of impairment is likely. This is because in these cases, a failure to make a finding of impairment may (do one or more of the following):*

- *undermine public confidence in the profession*
- *fail to maintain the professional standards expected of social workers”.*

A social worker failing to safeguard a vulnerable child, undoubtedly has the potential to undermine public confidence. Such conduct is certainly a significant departure from professional standards.

The case examiners have considered whether a well informed member of the public, with knowledge of the mitigating factors, namely the social worker's lack of experience, would expect a finding of impairment. The case examiners return to their earlier conclusion that the safeguarding concern posed such an obvious risk to Child A, which most adults would identify and want to respond to, that members of the public may lose trust in the profession and the regulator, 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 consider that it is reasonable to offer accepted disposal in this case because:

- There is no conflict in evidence, the social worker accepts the facts and that their fitness to practise was impaired.
- The case examiners have a number of sanctions available to them in order to satisfy the public interest without the need for this to be examined within a public hearing.
- The case examiners are 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	1 year	

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 are aware that where a social worker's fitness to practise is potentially impaired, they will usually need to ensure the public is protected through some action by the regulator. The case examiners decided that taking no further action would require exceptional circumstances and they are not of the view that the mitigation offered by the social worker could be considered exceptional.

The case examiners considered offering advice but concluded it would be insufficient in this case, as it would fail to mark the seriousness of the social worker's alleged conduct.

The case examiners next considered whether a warning order would be appropriate in this case.

The case examiners note that paragraph 96 of the sanctions guidance details that three indications that a warning order is likely to be appropriate are:

- ‘the fitness to practise issue is isolated or limited’
- ‘there is a low risk of repetition’
- ‘the social worker has demonstrated insight’.

The case examiners considered that all three of the above criteria apply in this case, and have decided that the necessary level of protection in this case can be met with a warning order. The case examiners have considered the length of time for the published warning and consider one year to be proportionate in this case.

This was a finely balanced determination, as the case examiners do not consider that the matter, be it isolated, is of ‘relatively low seriousness’, as pointed to in Social Work England’s sanctions guidance in respect of one year warnings. However, the social worker does not require additional time to fully address the risk of repetition, as is indicated in the same guidance in respect of three year warnings. Therefore, the primary purpose of the warning is to highlight the professional standards expected of social workers.

A failure to safeguard a vulnerable child is a serious matter. Although the issue is isolated, the case examiners have acknowledged the seriousness in their assessment of the statutory ground and impairment. However, the case examiners have taken into account the social worker’s lack of experience in both undertaking emergency duty work and in social work in general. Whilst not excusing the social worker’s apparent lack of action, the case examiners do consider that the public would have an element of understanding of why the social worker may have acted in this way, and it is for this reason that the case examiners have decided upon the lesser duration for the proposed warning.

The case examiners did not consider that the matter fell marginally short of the need to restrict practice, and therefore five years would be disproportionate.

The case examiners went on to test the appropriateness of a warning order by considering conditions of practice and suspension. The case examiners recognised that the social worker plans to complete their ASYE with a subsequent employer and that any conditions which they may suggest would replicate the support which should be provided during the social worker’s ASYE.

The case examiners considered that suspension from the register would be a disproportionate and punitive outcome in this case.

In all the circumstances of this case, the case examiners are satisfied that a warning of one years' duration is the proportionate sanction.

The case examiners will notify the social worker of their proposal to issue a published warning of one years' duration and will seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 14 days to respond, with permission granted for the regulator to provide additional time to account for the Christmas period.

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 safeguarding of vulnerable children is paramount. Failing to do so has the potential to have an adverse effect on the public's confidence in an individual social worker and may also damage the reputation of the social work profession.

The case examiners remind you that you are required to adhere to Social Work England's professional standards. In particular, they bring your attention to the following standards:

As a social worker I will:

3.4 Recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families and their support networks.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

6.1 Report allegations of harm and challenge and report exploitation and any dangerous, abusive or discriminatory behaviour or practice.

Your conduct should not be repeated. Any similar 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 submitted a completed accepted disposal response form on 23 January 2025, which included the following declaration:

“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 note that the social worker has accepted the proposed disposal as outlined by them. The case examiners have considered the public interest in this matter. They have not been presented with any new evidence that might change their previous assessment and therefore remain satisfied that the public interest in this instance can be fulfilled through the accepted disposal process. The case examiners therefore direct that the regulator impose a warning order of one year duration.