



Case Examiner Decision

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FTP-65706

Contents

The role of the case examiners.....	3
Decision summary.....	4
The complaint and our regulatory concerns	6
Preliminary issues	8
The realistic prospect test.....	9
The public interest	18
Accepted disposal	20

The role of the case examiners

The case examiners perform a filtering function in the fitness to practise process, and their primary role is to determine whether the case ought to be considered by adjudicators at a formal hearing. The wider purpose of the fitness to practise process is not to discipline the social worker for past conduct, but rather to consider whether the social worker's current fitness to practise might be impaired because of the issues highlighted. In reaching their decisions, case examiners are mindful that Social Work England's primary objective is to protect the public.

Case examiners apply the 'realistic prospect' test. As part of their role, the case examiners will consider whether there is a realistic prospect:

- the facts alleged could be found proven by adjudicators
- adjudicators could find that one of the statutory grounds for impairment is engaged
- adjudicators could find the social worker's fitness to practise is currently impaired

Case examiners review cases on the papers only. The case examiners are limited, in that, they are unable to hear and test live evidence, and therefore they are unable to make findings of fact.

Decision summary

Decision summary	
Preliminary outcome(s)	Accepted disposal proposed – Warning Order 3 years with (voluntary removal)
Final outcome	Accepted disposal – Warning Order 3 years with (voluntary removal)
Date of the final decision	2 November 2022

Executive summary

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

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

The case examiners do not consider it to be in the public interest for the matter to be referred to a final hearing and they consider that the case can be concluded by way of accepted disposal, this is because:

- The social worker would not appear to have practised since 2018.
- The social worker accepts that their fitness to practise is impaired.
- The social worker accepts all of the concerns raised about their practice.
- They have signed a form agreeing to their voluntary removal from the social work register.

The case examiners will notify the social worker of their intention to resolve the case by way of accepted disposal, warning order 3 years and voluntary removal. The case examiners will write to the social worker and ask if they agree with this proposal. They will be given 21 days to respond to 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 case examiners received the social worker's signed response to their proposal on 2 November 2022. The social worker signed a declaration on 31 October 2022 confirming that they understand and accept the terms of the disposal of their fitness to practise case.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, the NSPCC. The original complaint was made to the Health and Care Professionals Council (HCPC).
Date the complaint was received	16 September 2018
Complaint summary	The allegations relate to the social worker's conduct with children and families, when it is suggested that there were delays in assessment processes, failures to share information, missed appointments, poor record keeping and disclosing information to a child which caused them to question their parentage.

Regulatory concerns

Whilst registered with the Health and Care Professions Council as a Social Worker and during the course of your employment at the National Society for the Prevention of Cruelty to Children (NSPCC) you:

- 1) In or around July 2017 did not adequately safeguard Service User 1 by:
 - a) Not recording evidence on Phoenix to understand your assessment of why Service User 1's supervision level could be lowered.
 - b) Not producing a robust safety plan in respect of the sexually harmful behaviours or escalating risk-taking behaviours demonstrated by Service User 1.
 - c) Not recording evidence on Phoenix of an End of Treatment Report in respect of work undertaken in 2017.
 - d) Not conducting a risk assessment for Service User 1.
 - e) Not following management actions and decisions.

- f) Not following the “Procedure for those who work with children or adults at risk” to address risks.
 - g) Not following the Children’s Services Development and Delivery Directorate (CSDD) Practice Standards in terms of ensuring a rationale for decision making along with completed actions and follow through.
 - h) Not following the CSDD Practice Standards in terms of working together to mitigate and manage risk.
- 2) In or around July 2017 did not adequately deal with your work in respect of Family A by:
- a) Allowing their case to become delayed.
 - b) Not producing a final report to provide to Family A.
 - c) Arriving late for some sessions with Family A.
 - d) Cutting some sessions short with Family A.
 - e) Cancelling visits to Family A. f) Not providing the AIM Panel with the Bespoke Assessment.
- 3) In or around July 2017 did not effectively carry out your role as a Social Worker in respect of Family B by:
- a) Making a comment to the Child of Family B which led him to question his parentage and placing his mother at risk of harm from her previous partner.
 - b) Not providing the family with the End of Treatment Report.
- 4) In or around July 2017 did not effectively carry out your role as a Social Worker in respect of Family C by:
- a) Recording 11 out of 15 sessions on Phoenix between 2 and 5 months after they took place.
 - b) Not providing the family with a closure report or the appropriate ending by way of a closure meeting.

The matters described at particulars 1 – 4 constitute misconduct.

By reason of your misconduct your fitness to practise is impaired.

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 concerns **1-4** 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

This case was considered at an investigating committee panel of the Health and Care Professions Council (HCPC) on 11 November 2019.

The case examiners have considered the evidence bundle that was made available to the Investigating Committee Panel (ICP). The decision made by the ICP was as follows:

- The panel concluded there is a realistic prospect of proving the facts of the allegations in relation to concerns 1-4.
- The panel considered that the alleged failures were serious and concluded there was a realistic prospect that the facts, if proven would amount to misconduct.
- The panel concluded there was a realistic prospect the social worker's fitness to practice was impaired.
- The allegations were referred to the Conduct and Competence Committee.

On 19 November 2019, the social worker was informed that it was unlikely the HCPC would have sufficient time to gather witness statements and other evidence prior to Social Work England taking over as the new regulator for the social work profession. This matter, therefore, did not progress to a hearing.

On 02 December 2019, regulation of the social work profession transferred to Social Work England. This case was subsequently reviewed and, in accordance with the just disposal of transfer cases policy, a decision was reached to refer the case back to Social Work England's case examiners for them to consider it afresh.

This is therefore a new decision.

The just disposal of transfer cases policy can be found on Social Work England's website.

Facts

Whilst registered with the Health and Care Professions Council as a Social Worker and during the course of your employment at the National Society for the Prevention of Cruelty to Children (NSPCC) you:

- 1) In or around July 2017 did not adequately safeguard Service User 1 by:
 - a) Not recording evidence on Phoenix to understand your assessment of why Service User 1's supervision level could be lowered.
 - b) Not producing a robust safety plan in respect of the sexually harmful behaviours or escalating risk-taking behaviours demonstrated by Service User 1.
 - c) Not recording evidence on Phoenix of an End of Treatment Report in respect of work undertaken in 2017.
 - d) Not conducting a risk assessment for Service User 1.
 - e) Not following management actions and decisions.
 - f) Not following the "Procedure for those who work with children or adults at risk" to address risks.
 - g) Not following the Children's Services Development and Delivery Directorate (CSDD) Practice Standards in terms of ensuring a rationale for decision making along with completed actions and follow through.
 - h) Not following the CSDD Practice Standards in terms of working together to mitigate and manage risk.

The case examiners have had sight of the following documents relevant to all regulatory concerns:

- Confirmation from the social worker, dated 14 March 2022 they admit to the factual particulars set out in the regulatory concerns and agree to their removal from the register.
- Management investigation of practice dated 14 February 2018.
- Disciplinary appeal hearing dated 1 October 2018.
- Record of disciplinary hearing dated 25 June 2018.
- Disciplinary decision letter to the social worker dated 20 July 2018.
- ICP bundle of evidence.

In relation to service user 1, the employer led investigation concluded that *‘the case records are very much written in the narrative with little evidence of analysis in respect of the escalating risks. Whilst [the social worker] notes and comments on the behaviours and escalating risks in a narrative format, there is no evidence that this informs safety planning or risk assessment.’* This document notes the absence of a risk assessment, the tool used to assess the reduction of risk, and a safety plan.

The management investigation of practice details service user 1 engaging in risky and concerning behaviour which did not appear to have been shared in supervision, with other professionals or with the family as would have been expected.

2) In or around July 2017 did not adequately deal with your work in respect of Family A by:

- a) **Allowing their case to become delayed.**
- b) **Not producing a final report to provide to Family A.**
- c) **Arriving late for some sessions with Family A.**
- d) **Cutting some sessions short with Family A.**
- e) **Cancelling visits to Family A.**
- f) **Not providing the AIM Panel with the Bespoke Assessment.**

In relation to family A, a review of the Phoenix records showed that the family were advised by the social worker on 15 June 2017 that their Graded Care Profile (GCP) assessment was complete. Almost two months later on 11 August 2017 the family were contacted by the social worker and told the assessment would be shared with them the week ending 25 August 2017. The social worker acknowledged during the investigation that the family

never received the assessment. The investigation concluded that *'without the report parents would not have been able to consider the risk and protective factors fully.'*

Family A advised that they had not seen the social worker since 3 May 2017, and they never received their assessment report. The social worker accepted that the written report *'was not completed,'* and explained that this was due to work pressures and being *'in a pickle'* with their recording.

The Phoenix case records indicated that eight appointments were recorded as one-hour sessions, however some appointments did not go ahead, and the social worker accepted they *'cut sessions short.'* The social worker also accepted that they arrived late for some sessions due to traffic.

3) In or around July 2017 did not effectively carry out your role as a Social Worker in respect of Family B by:

- a) Making a comment to the Child of Family B which led him to question his parentage and placing his mother at risk of harm from her previous partner.**
- b) Not providing the family with the End of Treatment Report.**

The management investigation report suggests that this concern stemmed from a complaint made by the child's mother. The service manager who investigated the complaint *'advised that the disclosure of paternity had significant consequences for this family in the longer term.'*

The social worker is said to have *'expressed disappointment and sadness in respect of the 'bombshell' paternity issue that was triggered by an activity in a session [they] delivered.'* There is evidence to suggest that the child sought out their biological father on social media and as their mother claimed they had experienced violence and abuse in their relationship with this individual, the mother suggested they were negatively impacted by the social worker's actions.

The social worker accepted in their investigative interview they did not provide an end of treatment report.

The social worker received a written warning in respect of their actions at regulatory concern 3a.

4) In or around July 2017 did not effectively carry out your role as a Social Worker in respect of Family C by:

- a) Recording 11 out of 15 sessions on Phoenix between 2 and 5 months after they took place.**

b) Not providing the family with a closure report or the appropriate ending by way of a closure meeting.

The investigation report suggests that the parent in family C, raised concerns about the social worker cancelling and rearranging visits impacting their own emotional health. The independent review of records completed by the social worker suggest that the majority of case recordings were input some months after visits had taken place. 11 out of 15 visits were said to have been recorded between two months and five months after the visits had taken place. The recording policy in place was that case work should be recorded within seven days or 24 hours if the matter was a child protection issue.

The social worker appears to have accepted in investigative interview the family did not receive a closure report or receive an appropriate ending by way of a closure meeting.

Having had regard to the relevant evidence, the case examiners have carefully considered the evidence in respect of each regulatory concern afresh. The case examiners agree with the ICP's determination that there is a realistic prospect of concerns 1-4 being established by adjudicators.

Grounds

The case examiners must now consider whether there is a realistic prospect of adjudicators finding the facts which are capable of proof amounting to one of the statutory grounds. In this instance, the statutory ground being considered is misconduct.

The case examiners are aware that 'misconduct' denotes serious acts or omissions, suggesting a significant departure from what would be proper in the circumstances.

The case examiners have considered the evidence available and note that there is evidence to suggest that the social worker may not have adhered to safeguarding policies and procedures, employer practice standards and recording policies. There is also evidence to suggest that the social worker may not have assessed and managed risk, potentially placing vulnerable young people and their families at further risk. Considering Social Work England's standards, and the applicable guidance, they consider these matters viewed together are serious and would represent a significant departure from the standards.

The relevant standards are the HCPC standards of conduct, performance, and ethics. Standards that may have been departed from are:

1.1 You must treat service users and carers as individuals, respecting their privacy and dignity.

1.2 You must work in partnership with service users and carers, involving them, where appropriate, in decisions about the care, treatment or other services to be provided.

1.3 You must encourage and help service users, where appropriate, to maintain their own health and well-being, and support them so they can make informed decisions.

2.3 You must give service users and carers the information they want or need, in a way they can understand.

2.6 You must share relevant information, where appropriate, with colleagues involved in the care, treatment or other services provided to a service user.

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers, and colleagues as far as possible.

7.1 You must report any concerns about the safety or well-being of service users promptly and appropriately.

7.3 You must take appropriate action if you have concerns about the safety or well-being of children or vulnerable adults.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

10.1 You must keep full, clear, and accurate records for everyone you care for, treat, or provide other services to.

10.2 You must complete all records promptly and as soon as possible after providing care, treatment, or other services.

The case examiners therefore consider that there is a real prospect of these complaints amounting to misconduct.

The case examiners are therefore, in agreement with the ICP'S determination that the facts capable of proof could amount to the statutory ground of misconduct.

Impairment:

Personal impairment

In their consideration of personal impairment, the case examiners have considered insight, remorse, remediation, and risk of repetition.

Insight

Prior to the ICP meeting the social worker confirmed that their practice had fallen short of the required standards and what would have been expected of them within their role. The social worker appears to have accepted that at the time the concerns arose, they were *'in a pickle'* with their recording.

In an email to the regulator dated 31 October 2019 the social worker states that they recognise their practise was of a 'poor standard' when they were dismissed from their employment with NSPCC and pursuing a career in social worker would not be beneficial for their own well-being or in the interests of service users.

The case examiners are satisfied that the social worker has not practised as a social worker since these concerns emerged. It is evident that the social worker indicated at an early point their desire to resign from their former social work position. The social worker appears to have consistently accepted that their conduct fell below the standards expected of a social worker at the relevant time.

Remorse

In their disciplinary hearing (25 June 2018), the social worker accepted that various NSPCC standards were not met and said that they regretted this. Although the social worker did appeal the decision of the disciplinary hearing, they add that they were not *'blaming other's for [their] failings.'*

The social worker states in their signed voluntary removal form:

'During the latter stages of my social work career with the NSPCC my emotional and overall wellbeing was of concern to me and to my employer. This did not improve and my practice as a social worker became impaired. I deeply and sincerely regret my actions and the this will have had on the families I delivered a service to as well as my employer.'

Remediation

The social worker has not completed any remediation; however, they have indicated they do not intend to return to the social work profession. The social worker indicated in an email to the regulator, dated 31 October 2019 they were self-employed as a photographer and had no intention of returning to the social work profession. The case examiners consider that the concerns are remediable, should the context be different.

Risk of repetition

The evidence suggests that five qualified managers had expressed concern about the practice undertaken by the social worker. There is also evidence to suggest that despite performance plans being put in place the social worker did not make the necessary

improvements. Given this, the case examiners consider that at the time the concerns emerged there was some evidence of repetition.

At the disciplinary hearing, held on 26 June 2018 the social worker informed the meeting that they would not be returning to their social work role. They have continued to maintain this position and do not appear to have been engaged in a social work role since 2018. The social worker confirmed in email correspondence in November 2018 and again in a statement dated 31 October 2019, they are no longer employed with any agency, and they have no intention of pursuing any further career in social work.

Case examiner guidance (paragraph 19) states the risk of repetition is higher when the social worker fails to fully understand what they have done wrong; and that insight needs to be complete rather than partial. The case examiners consider that the social worker has demonstrated insight by accepting the concerns raised and accepting their impairment. The social worker has mitigated the risk of repetition by removing themselves from social work practise and signing a voluntary removal agreement form. The social worker has not however, engaged in any remediation and therefore, were they to return to practice it might be assumed that the risk of repetition remains.

Public impairment

In their consideration of the public interest element, the case examiners have considered the risk to the public, departure from standards and any impact on trust and confidence in the profession.

The case examiners note that the disciplinary outcome letter sent to the social worker suggests that all of the regulatory concerns considered in the employer investigation met the threshold for the full range of disciplinary penalties. The letter continues to outline how in their former employer's view, the combination of failure to adhere to policies and procedures, practice standards and failure to comply with the recording policy were of a serious nature and amounted to 'gross misconduct.' The evidence suggests that children and families who were already deemed to be at risk may have been put at further risk of harm by the social worker's actions.

The case examiners have detailed in their consideration of grounds for impairment that there may have been a departure from 11 professional standards, including promoting and protecting the interests of service users, communicating effectively and appropriately, managing risk, and keeping accurate records of their work. Furthermore, there is evidence to suggest that the social worker had been subject to performance improvement plans which had not resulted in the necessary improvements to their practice. The departure from standards spans a range of behaviours expected of qualified social workers to maintain public trust and confidence in the profession.

The case examiners concur with the ICP decision that there is realistic prospect the social worker would be found impaired by reason of misconduct.

The public interest

Decision summary

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

Referral criteria

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

Additional reasoning

With reference to the case examiner guidance (February 2020) and the voluntary removal guidance, the case examiners have given careful consideration to whether there is a public interest in this case proceeding to a hearing.

The case examiners consider the following to be significant factors affecting their decisions about public protection and confidence in the profession:

- The social worker does not dispute any of the core facts.
- The social worker accepts that their fitness to practise is impaired.

- The social worker has signed forms agreeing to their voluntary removal from the register.
- Any public interest in this matter would be addressed by the publication of this decision.

The case examiners consider that, in light of the above, the case examiners are satisfied it is not in the public interest to refer this matter to a final hearing and instead this can be resolved by way of accepted disposal – warning order (three years & voluntary removal).

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	☒

Accepted disposal

Case outcome		
Proposed outcome	No further action - voluntary removal	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	Three Years	

Reasoning

The case examiners have found a realistic prospect that the regulatory concerns would be found proven by adjudicators and that those concerns could amount to misconduct. The case examiners have found a realistic prospect that the social worker would be found to be impaired by reason of misconduct.

The case examiners have consulted their guidance and appreciated that any order imposed must be the minimum necessary to protect the public and the wider public interest

In this instance, accepted disposal options are available to the case examiners since the social worker accepts the facts of the case and accepts that their fitness to practice is impaired.

With regards to upholding standards, the case examiners are aware, in the event the social worker agrees to an 'accepted disposal' without a referral to a hearing, their full decision will be published on Social Work England's website, thus fulfilling the public interest and the need for the regulator to declare what is proper conduct. They are aware that their guidance supports this approach in all but the most serious cases.

The case examiner guidance suggests that if they have determined the social worker's impairment presents a current risk to the public, they must move beyond no further action, advice, or warning orders as these would not protect the public. However, in this instance, the case examiners consider that it may be possible to step outside the guidance for the following reasons:

- the social worker has not been employed in a social work role since 2018,

- they are nearing retirement age and they have consistently maintained that they do not intend to pursue any further career in social work.
- The social worker has signed a voluntary removal form which indicates they do not intend to re-join the profession.

The case examiners consider that conditions of practice may have been a suitable option in this instance, as it would protect the public, whilst offering the social worker a means to continue to practise, albeit with restrictions and opportunity to remediate through reflection and further training. However, given that the social worker has not been employed in a social work role for some four years now, is of retirement age, and has signed a voluntary removal document, this would suggest that conditions of practice are both unnecessary and unworkable.

The case examiners considered suspension as a suitable sanction and discounted this as in a different context, [where the social worker indicated they wished to continue to practise] conditions of practice may have been a workable and suitable sanction. The case examiner guidance, [paragraph 128] would indicate that suspension would not be a proportionate sanction if conditions of practice were a workable option, and the least restrictive option should be implemented wherever possible.

With reference to the voluntary removal guidance, the case examiners note that alongside implementing voluntary removal, they can also propose advice or a final order. With this in mind, the case examiners consider that in this case, a proposed warning order should be implemented alongside the social worker's voluntary removal from the register.

A warning order would make clear the regulator's view that the social worker's conduct represents a significant departure from the standards.

In considering the lifespan of the warning order, the case examiners have referred to their guidance which states one year might be appropriate for an isolated incident of relatively low seriousness where the primary objective is to send a message about the professional standards expected of social workers, three years might be appropriate for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers and that five years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration in order to maintain confidence in the profession.

In making the decision about the lifespan of the warning order the case examiners have taken into consideration the age of the social worker and the commitment they have made to voluntary removal. The case examiners consider that three years reflects the seriousness

of the concerns raised and sends a message to the social worker about the standards expected of them.

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 case examiners received the social worker's signed response to their proposal on 2 November 2022. The social worker signed a declaration on 31 October 2022 confirming that they understand and accept the terms of the disposal of their fitness to practise case.

Case examiners' response and final decision

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