



Case Examiner Decision
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FTPS-17830

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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 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 - Warning order, five years
Final outcome	Accepted disposal -Warning order. Five years.
Date of the final decision	09.08.2021

Executive summary

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

1. The factual concern could be found proven by the adjudicators.
2. Those concerns could amount to the statutory ground of conviction.
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 determined that the case can be concluded by way of accepted disposal.

As such, the case examiners notified the social worker of their intention to resolve the case with a warning order of five years duration. The case examiners requested that the social worker respond to their proposal within 21 days of receiving their preliminary decision.

The case examiners received notification on 05/08/2021 that the social worker understands and accepts their proposal to dispose of this matter by way of accepted disposal warning order (5 years). The case examiners remain satisfied that it is not in the public interest to refer this matter to a substantive hearing. Their final determination is that this case should be concluded by way of accepted disposal.

The complaint and our regulatory concerns

The initial complaint

The complainant	Self-referral
Date the complaint was received	03 August 2020
Complaint summary	The social worker referred themselves to the regulator after they had been charged with drink driving. The social worker was convicted (23 November 2020) of driving a motor vehicle whilst over the prescribed limit of alcohol. The Social Worker pled guilty to the offence and was sentenced to 8 weeks imprisonment suspended for 12 months, a 30 month ban and associated fines.

Regulatory concerns

Whilst registered as a Social Worker:

1. On 23rd November 2020 you were convicted of an offence of driving a motor vehicle whilst over the prescribed limit of alcohol.

The matters outlined in regulatory concern 1 amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

Your fitness to practise is impaired by reason of your conviction or caution.

Preliminary issues

Conflicts of interest

Declaration: *I am not aware of any material conflicts of interest that could impact upon my consideration of this case.*

Lay case examiner

Michael Lupson

Professional case examiner

Cathryn Jani

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 the regulatory concern being found proven, that those concerns could amount to the statutory ground of **conviction**, and that the social worker's fitness to practise could be found impaired.

Reasoning

The case examiners have considered all 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.

Facts

On 23rd November 2020 you were convicted of an offence of driving a motor vehicle whilst over the prescribed limit of alcohol.

The case examiners have seen court documents that confirm that the social worker was before the court on 23 November 2020 charged with driving a motor vehicle after consuming alcohol. The court document the social worker as having 131 micrograms of alcohol in 100 millilitres of breath. The social worker entered a guilty plea and received an 8-week suspended prison sentence, £1000 fine and was disqualified from driving for 30 months, to be reduced by 32 weeks if a driving course was completed by 08 August 2022.

The social worker admits the regulatory concern.

The case examiners find a realistic prospect that this would be found proven.

Grounds

The case examiners are asked to consider whether the social workers fitness to practise is impaired by reason of conviction. The case examiners have seen the memorandum of conviction dated 23 November 2020, the plea entered by the social worker and the outcome of the hearing. The case examiners note that memorandum of conviction suggests the reason a suspended sentence was given was due to the 'extremely high reading' in terms of alcohol to breath ratio and accident caused as neighbours cars were damaged.

Case examiners are satisfied there is a realistic prospect of adjudicators establishing the statutory ground of 'conviction', as provided by The Social Workers Regulations 2018.

Impairment

The current impairment test has two limbs:

- i. The personal element
- ii. The public interest element

The personal element

Insight: The social worker self-referred to the regulator and immediately began to address the issue of concern. In submissions the social worker shows insight saying:

'I should be a role model in society, upholding public trust and on the evening of the incident I did not do this. I took a huge risk, driving my car and I am thankful this did not injure anyone, it was serious lack of judgement. The situation could have proven fatal, and I put myself and members of the public at risk.'

Remorse: The social worker expresses remorse in submissions and describes themselves as embarrassed and appalled about what they did when they drove their car whilst over the limit.

Remediation: The social worker has completed [REDACTED] and says that they now abstain from alcohol. The social worker says in submissions that they will be completing the driver training course offered which will reduce the period of the driving ban. The social worker pled guilty to the offence and immediately informed their employer of the incident.

Risk of repetition: In submissions the social worker speaks of being 'frightened' by the incident itself and the consequences of their actions. The social worker says that they would

not repeat their actions. The social worker has a positive reference from their current employer.

The social worker does demonstrate some insight however, the case examiners are concerned that the social worker had a very high alcohol to breath reading. In submissions the social worker states that they had three alcoholic drinks with a friend living in the same street and they 'made a dangerously poor decision' to drive home. Case examiner guidance (paragraph 20) suggests that the simple assertion that the social worker accepts they have acted wrongly is unlikely to demonstrate full and genuine insight. The social worker has yet to complete their driving course [REDACTED]

As such the case examiners consider that there is a risk of repetition in this instance.

The public Interest element

Risk to public: The social worker says in their submissions that they appreciate their actions could have put themselves and members of the public at risk. They recognise that their actions in driving whilst under the influence of alcohol would not serve to uphold trust and confidence in the profession.

The social worker was given a suspended prison sentence because of the high breath to alcohol reading. In submissions the social worker sets out how after they had driven into neighbours' cars, they drove around the block again before going home. The social workers actions posed a high risk of harm to themselves and the public.

The social workers actions in this instance would suggest a departure from the Social Work England professional standards, in particular 5.2 -behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

Accordingly, the case examiners have concluded there is a realistic prospect that a finding of current impairment would be made by adjudicators, should the regulatory concern be found proven.

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

The case examiners must now turn their minds to whether it is in the public interest for this matter to be referred to a final hearing to be considered by adjudicators. Whilst the case examiners have determined there is a realistic prospect that adjudicators would find the public interest is engaged in this case, they are of the view that the public interest can be satisfied by their decision, and the reasons for that decision, being published on Social Work England's public register which can be found on its website. The case examiners consider that:

- There is not a dispute regarding facts at the core of this case.

- This is not the type of case where public confidence in the profession will be damaged by not holding a public hearing.
- The publication of this decision will provide the social worker with an opportunity to reflect on and gain further insight into the circumstances of this case.
- The publication of this decision will also highlight behaviour that falls short of acceptable standards in social work and will act as an example to other members of the profession.
- The publication of this decision demonstrates that swift and appropriate action is taken in cases of alleged wrongdoing, thus enhancing the public's confidence in the social work profession.

Lastly, public interest also entails the need for proportionate decision-making. The case examiners consider it is in the public interest to bring this matter to a prompt conclusion, whilst also ensuring the public remains adequately protected.

For the reasons stated, the case examiners have decided it is not in the public interest to refer this matter to adjudicators; rather they will write to the social worker and ask them to agree to dispose of this case without the need for a hearing. The case examiners request that the social worker respond to their proposal within 21 days of receiving their preliminary decision.

The social worker confirmed on 05.08.2021 that they understood and accepted the terms of the proposal to deal with this matter by way of accepted disposal -warning order (5 years).

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. Case examiners are satisfied that an accepted disposal (warning) 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.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	Five years	

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 considered taking no further action but considered that this would not be appropriate in this instance as it would not satisfy the wider public interest.

The case examiners next considered whether offering advice would be sufficient. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners believe that issuing advice is not sufficient to mark the seriousness with which they view the social worker's conduct.

The case examiners then considered a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order, and the case examiners concluded that a warning order is the appropriate and proportionate outcome in this case; and represents the minimum sanction necessary to uphold the public's confidence. When considering a warning order, case examiners can direct that a warning order will stay on the social worker's register entry for periods of one, three or five years. According to case examiner guidance, 1 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; 3 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 5 years might be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration, to maintain confidence in the profession and where it is necessary to send a clear signal about the standards expected.

The case examiners consider that 5 years would be appropriate in this instance, they have reached this conclusion because of the extremely high levels of alcohol in the social workers breath sample and subsequent high level of risk posed to the public by them opting to drive and then continue to drive after damaging neighbours' vehicles. The social worker has yet to complete their driver training course and does not appear to be in contact with [REDACTED] or other support services which suggests that further remediation may be necessary.

The case examiners have tested their proposed sanction by considering whether Conditions of Practice would be more suitable. The social worker has a positive reference from a current manager and there would not appear to have been any previous concerns about their practice. Conditions of practice would not therefore appear to be necessary or proportionate in this instance.

Content of the warning

The court considered that your alcohol to breath ratio was 'extremely high' when you drove your car on 18 July 2020. There was a high risk of harm to both yourself and members of the public, this is not consistent with the standards expected of social workers.

Please ensure that you comply with Social Work England professional standards and in particular 5.2:

do not 'behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.'

Any further matters brought to the attention of the case examiners will likely result in a more serious outcome.

Response from the social worker

The social worker returned their accepted disposal response form on 05.08.2021. They have signed to confirm that they understand and accept the terms of the proposal to deal with this matter by way of accepted disposal -warning order (5 years).

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 order- 5 years) 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.