

Case Examiner Decision  
Zoe Adams – SW70930  
FTPS-19592

## Contents

|                                                 |    |
|-------------------------------------------------|----|
| The role of the case examiners .....            | 3  |
| Decision summary .....                          | 4  |
| The complaint and our regulatory concerns ..... | 5  |
| Preliminary issues .....                        | 7  |
| The realistic prospect test .....               | 8  |
| The public interest .....                       | 13 |
| Accepted disposal .....                         | 15 |

## 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        | Accepted disposal proposed - warning order (3 years) |
| Final outcome              | Accepted disposal - warning order (3 years)          |
| Date of the final decision | 23 February 2023                                     |

### 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 conviction or caution in the United Kingdom for a criminal offence;
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 that the case can be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker was notified of their intention to resolve the case with a warning order of 3 years; this was subject to the social worker's agreement. On 17 February 2023 the social worker accepted the decision and proposed sanction in full.

The case examiners have considered all of the documents made available within the evidence bundle. Key evidence is referred to throughout their decision and the case examiners' full reasoning is set out below.

## The complaint and our regulatory concerns

### The initial complaint

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The complainant                 | The complaint was raised by a self-referral by the social worker.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Date the complaint was received | 08 July 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Complaint summary               | <p>The social worker made a self-referral to Social Work England following their arrest for driving a vehicle whilst over the prescribed limit of alcohol.</p> <p>The social worker subsequently appeared at Portsmouth Magistrates Court on 19 August 2021 and pleaded guilty to the charge of driving whilst over the prescribed limit of alcohol. The social worker was sentenced to a 12 month community order comprising of 80 hours unpaid work, a driving disqualification of 24 months and ordered to pay a victim surcharge and costs.</p> |

### Regulatory concerns

Whilst registered as a social worker:

1. On 19 August 2021, you were convicted of an offence of driving a motor vehicle whilst over the prescribed limit of alcohol.

[REDACTED]

[REDACTED]

[REDACTED]

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

[Redacted]

Your fitness to practise is impaired by reason of a conviction or caution in the United Kingdom for a criminal offence [Redacted]

## Preliminary issues

| Investigation                                                                                                                                                                                                                               |     |                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------|
| Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?                                                                                                                                 | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?                                                                                                | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| 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 | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| 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 | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |

Requests for further information or submissions, or any other preliminary issues that have arisen

## 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 conviction or caution in the United Kingdom for a criminal offence, and that the social worker's fitness to practise could be found impaired.

### Reasoning

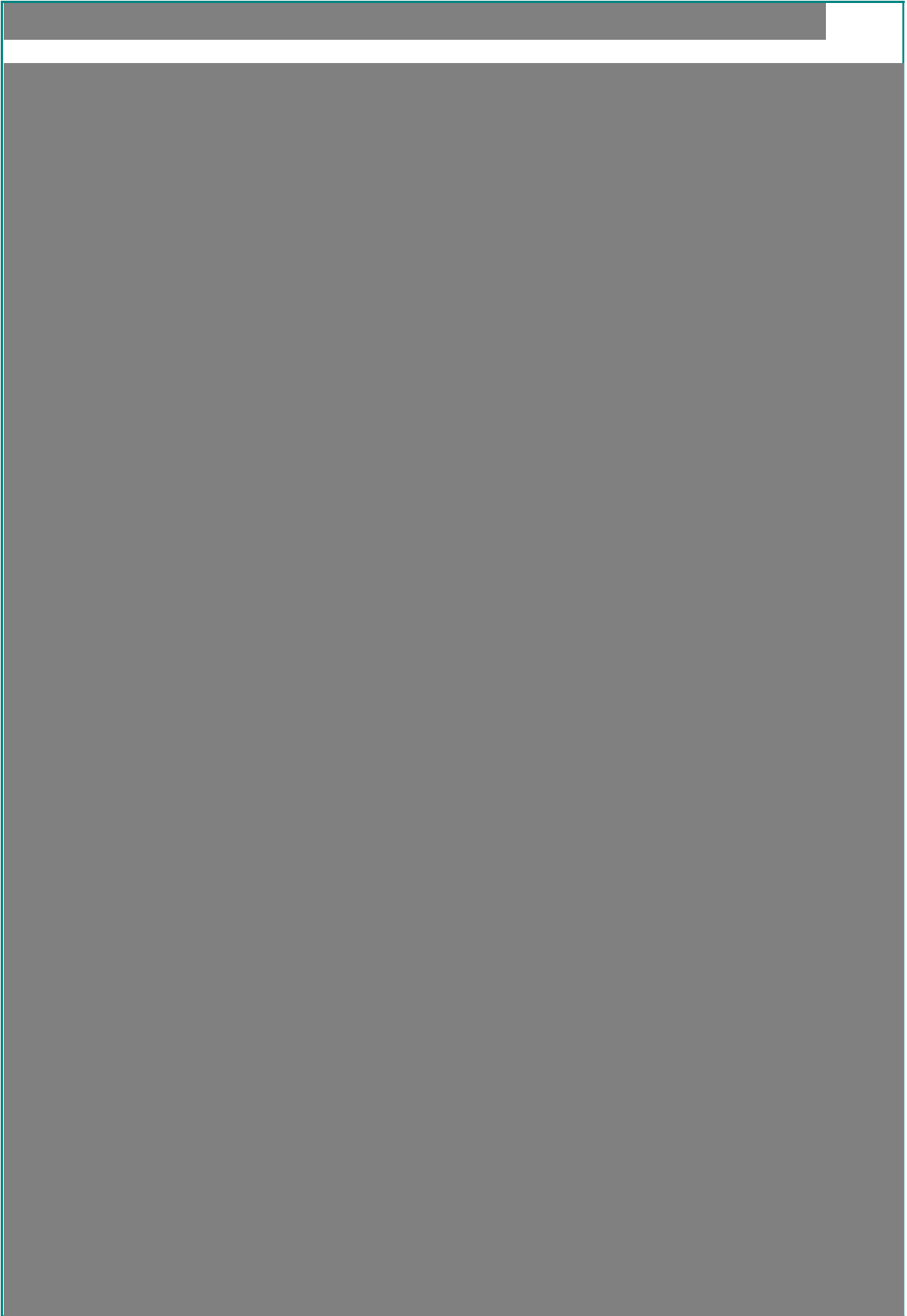
#### Facts

***Whilst registered as a social worker:***

***1. On 19 August 2021, you were convicted of an offence of driving a motor vehicle whilst over the prescribed limit of alcohol.***

The case examiners have had sight of the certificate of memorandum detailing an entry from Portsmouth Magistrates Court for 19 August 2021. The entry confirms the conviction outlined in regulatory concern 1. The social worker was sentenced to a 12 month community order comprising of 80 hours unpaid work, a driving disqualification of 24 months and ordered to pay a victim surcharge and costs.

**Having considered the evidence available to them the case examiners are satisfied that there is a realistic prospect of regulatory concern 1 being found proven by adjudicators.**



## Grounds

### Regulatory concern 1

#### **Conviction or caution in the United Kingdom for a criminal offence**

The case examiners have had sight the certificate of memorandum detailing an entry from Portsmouth Magistrates Court for 19 August 2021. The entry confirms the conviction outlined in regulatory concern 1.

**Having considered the evidence available the case examiners are satisfied that there is a realistic prospect of adjudicators finding that the ground of conviction or caution in the United Kingdom for a criminal offence is engaged for regulatory concern 1.**

## Impairment

The current impairment test has two limbs: the personal element and the public interest element.

### **Personal**

The case examiner guidance (2022) sets out that case examiners will assess whether there is realistic prospect of a finding of current impairment of a social worker's fitness to practise. When doing this, they will consider whether the conduct:

- is easily remediable by the social worker
- has already been remedied by the social worker
- is highly unlikely to be repeated by the social worker in future

The social worker has engaged with the fitness to practice process and provided submissions to Social Work England. The social worker accepts the conviction and self-referred to the regulator at the earliest opportunity.

Having reviewed the available evidence alongside submissions, provided by the social worker to the regulator, the case examiners consider there to be evidence of the social worker having demonstrated an appropriate level of insight and remediation. In reaching this conclusion, they note the following:

- The social worker informed the regulator, employer, and employment agency at the earliest opportunity after arrest, prior to conviction.

- The social worker, within their submissions, has been transparent with life events impacting on them at the time of the incident. The case examiners are satisfied they have seen independent evidence which would confirm the life events and the impact they had on the social worker.
- The social worker has outlined, within their submissions, the steps they have taken in their daily life to look after their own well-being.
- The case examiners are satisfied that the social worker's submissions reflect their insight into the potential impact drink driving can have and this has been further solidified after the completion of the court directed drink drive rehabilitation course.

The case examiners consider the offence to be serious but also note the social worker to have demonstrated a clear understanding of what contributed to their decision to drive after having consumed alcohol, an understanding of the risk their conduct posed, and the harm it had the potential to cause. They have taken appropriate steps to prevent recurrence.

The case examiners are mindful that the social worker's driving disqualification remains active, at this time. There has been no opportunity afforded to the social worker to demonstrate that the risk of repetition has been removed; this would only be evidenced when the social worker has all restrictions on their driving removed.

Given the evidence available the case examiners are satisfied that the social worker is working towards remediation and that they have a good level of insight. Given the current restrictions on their driving the risk of repetition must be considered present, as this has yet to be tested.

### **Public**

The case examiners next considered whether the social worker's actions have the potential to undermine public confidence in the social work profession, or the maintenance of proper standards for social workers.

The case examiners have outlined their view that the social worker's conduct represents a serious departure from the standards expected of social workers and the case examiners consider that the public would expect the regulator to reach a finding of impairment in this case.

Social Work England drink and drug driving policy details aggravating factors to be considered when assessing seriousness. The case examiners have noted the following when assessing seriousness:

- the sentence imposed includes a period of disqualification from driving of 24 months.
- the offence including involvement in a road traffic collision.
- the alcohol reading was 93 microgrammes of alcohol in 100 millilitres of breath.

It is by good fortune alone that the social worker's conduct did not cause physical harm to the public. A finding of impairment would make clear to the social worker and to the wider social work profession that it is unacceptable to engage in activity contrary to the law. In such circumstances, a failure to find impairment may undermine public confidence in the maintenance of proper professional standards for social workers.

**Accordingly, the case examiners are satisfied that there is a realistic prospect of the adjudicators finding the social worker's fitness to practise to be impaired.**

## The public interest

### Decision summary

|                                                                |     |                                     |
|----------------------------------------------------------------|-----|-------------------------------------|
| Is there a public interest in referring the case to a hearing? | Yes | <input type="checkbox"/>            |
|                                                                | No  | <input checked="" type="checkbox"/> |

### Referral criteria

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

### Additional reasoning

The case examiners have concluded that the public interest in this case is engaged. However, they are satisfied that this interest may be appropriately fulfilled by virtue of the accepted disposal process.

Whilst the matter is serious, the case examiners are not of the view that it is so serious that a hearing might be necessary to maintain public confidence in the social work profession, or in Social Work England's maintenance of the standards expected of social workers.

The case examiners have noted that although the social worker has admitted the issues before the regulator, they have not indicated whether they accept their fitness to practise is impaired.

The case examiners are, however, nevertheless of the view that it would be appropriate and proportionate to offer an accepted disposal outcome in this case. Their reasoning is as follows:

- There is no conflict in evidence in this case and the social worker accepts all of the key facts.
- 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.

## Accepted disposal

| Case outcome      |                              |                                     |
|-------------------|------------------------------|-------------------------------------|
| Proposed outcome  | No further action            | <input type="checkbox"/>            |
|                   | Advice                       | <input type="checkbox"/>            |
|                   | Warning order                | <input checked="" type="checkbox"/> |
|                   | Conditions of practice order | <input type="checkbox"/>            |
|                   | Suspension order             | <input type="checkbox"/>            |
| Proposed duration | 3 years                      |                                     |

| Reasoning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance (2022) and reminded themselves that the purpose of sanction is not to punish the social worker but to protect the public and the wider public interest.</p> <p>In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness.</p> <p>The case examiners determined that taking no further action was not appropriate in a case where there is a conviction with aggravating factors. Taking no further action is not sufficient to mark the seriousness with which the case examiners view the social worker's conduct and fails to safeguard the wider public interest.</p> <p>The case examiners next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners believe that issuing advice is not sufficient to mark the seriousness with which they viewed the social worker's conduct.</p> <p>The case examiners then considered a warning order and determined that this was the most appropriate and proportionate response in this case and was the minimum necessary to protect the public and the wider public interest. While a warning will not restrict the social worker's practice, the case examiners are satisfied that restriction is not required as, the social worker has shown insight and is working towards remediation. A</p> |

warning would serve as a clear expression of disapproval of the social worker's conduct. Further, a warning will be a signal that any repetition will be highly likely to result in a more severe sanction.

In considering the duration of the warning, the case examiners have again had regard to the sanctions guidance (2022). It is stated that one year may 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 may be appropriate for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers. In line with case examiner guidance, three years will also allow the social worker additional time to demonstrate they have addressed any risk of repetition. Five years may be appropriate for serious cases that have fallen marginally short of requiring restriction of registration.

The case examiners consider that a one-year warning would not be a proportionate response in this instance. The case examiners do not view the alleged conduct as of 'low seriousness'.

The case examiners consider that a three-year warning order would be sufficient for the social worker to demonstrate they have addressed any risk of repetition and further reflect on the professional standards expected of social workers. This would be the minimum necessary to maintain public confidence and to send a message to the public, the profession and the social worker about the standards expected from social workers. The case examiners considered that a five-year duration would be disproportionate and would be punitive.

The case examiners did go on to consider whether the next two sanctions, conditions of practice and suspension, were more appropriate in this case. They considered conditions or suspension would be appropriate where there is still a high risk of repetition and no evidence of remediation. As the case examiners determined the social worker has demonstrated a level of insight and is working towards remediation, they considered that a conditions of practice order would be disproportionate and would not be suitable in this case. The case examiners considered that suspension from the register would also be a disproportionate and punitive outcome. This would risk deskilling the social worker, and the case examiners consider that it is in the public interest to allow the social worker to remain in practice.

The case examiners will now inform the social worker of their intention to resolve this case by way of a published warning of three years duration. The social worker will have 21 days in which to provide their response.

## Content of the warning

Driving whilst under the influence of alcohol is a serious criminal offence. Your decision to drive, which led to your conviction, demonstrated a serious lack of judgement. What is more, you put yourself and members of the public at risk of harm. Your conviction could also have an adverse effect on the public's confidence in you as a social worker and may also damage the reputation of the social work profession.

The case examiners draw your attention to the following Social Work England professional standard:

*Act safely, respectfully and with professional integrity*

*As a social worker, I will not:*

*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.*

You must ensure that any future practice meets these standards.

In relation to your ongoing practice, the regulator can consider warnings a social worker has received if further fitness to practise concerns are raised about them (and if the concerns are similar in nature).

## Response from the social worker

The social worker responded to Social Work England on 17 February 2023 to accept the decision and proposed sanction in full. The case examiners have had sight of the response from the social worker, which is dated 10 February 2023.

## 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 have again considered the public interest in this matter and, as they have not been presented with any new evidence, they are satisfied that it remains the case that the public interest in this matter may be fulfilled through the accepted disposal process.

The case examiners are satisfied that an accepted disposal (warning order of three years' duration) 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.