



Case Examiner Decision

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FTPS-18938

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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

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	14 March 2023

Executive summary

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

1. The factual concerns of regulatory concern 1(a) 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 that the case can be concluded by way of accepted disposal.

As such, the case examiners proposed to resolve the case with a warning order of 3 years. The social worker accepted this proposal and the terms in full on 10 March 2023.

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 current employer.
Date the complaint was received	25 February 2021
Complaint summary	The social worker's employer raised concerns regarding the social worker's conduct and communication. The concerns are outlined in full in the regulatory concerns.

Regulatory concerns

Whilst registered as a social worker, you:

1. On or between July 2020 and February 2021, failed to communicate appropriately with colleagues and/or other professionals, including:

a. On social media

[REDACTED]

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

Your fitness to practise is impaired by reason of your misconduct.

[REDACTED]



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(a) 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

Whilst registered as a social worker, you:

1. On or between July 2020 and February 2021, failed to communicate appropriately with colleagues and/or other professionals, including:

a. On social media

The case examiners have considered the evidence available. They have noted that there has been a complaint made by the social worker's employer and in addition an anonymous referral, both raising concerns about the social worker's use of social media.

The case examiners would expect, as would the public, for a social worker to use social media responsibly, in line with their professional standards and employer's social media

policy. They would expect a common courtesy to be exercised by the social worker in their use of social media and an awareness of the potential wide reach of social media.

The case examiners have had sight of a number of postings which the social worker is alleged to have made on social media. The social worker does not dispute making these comments. The posts include personal views on a public image of two women and statements made expressing views about the social worker's place of work, including colleagues.

The social worker's comments are made on a post created by another social media user, the post is focussed on a public image of two women. The social worker comments: *"I think she just looks like a [REDACTED] slapper to be honest. I mean who seriously parades themselves half naked all over the internet for others to pass comment?"* This comment is one of a number of comments the social worker goes on to post on this thread. The social worker states in one comment: *"Women who parade their bodies like this make me feel sick and make my blood go cold whilst I think of every woman who suffered sexually at the hands of sick individuals, who perhaps didn't parade their bodies in this way."* The social worker goes on to say: *"Anyway, it was put out there for opinion, this is mine. Women who out themselves in this way have to accept that not everyone will agree with their choice to do so."*

The responses made by other social media users to the comments made by the social worker indicate that those reading the comments consider the social worker to be disrespectful to women and also victim blaming. One social media user's comment said: *"I hope so very much that a woman disclosing violence to you doesn't suffer at the hands of your judgement."* A further social media user's comment followed up by saying: *"I also think victim blaming of sexual assault is not only a damaging judgemental opinion to put out there for victims of sexual assault but to also post it on Facebook is dangerous and you don't know who it will trigger."*

The social worker's employer addressed the social media comments internally and in a letter dated 26 February 2020 stated: *"These comments have been viewed as derogatory and aggressive in tone and nature."* *"As your Manager, I am troubled by your behaviour and the effect that this behaviour has had on your team colleagues and Managers alongside the wider audience."* It makes reference to the social worker being previously issued with the employer's social media policy.

The social worker's employer has provided a number of examples which they state are taken from the social worker's social media and reference their workplace and/or colleagues:

"the doctors on the frailty unit... completely unforgivable... they can all go [REDACTED] themselves..."

"....These people might be doctors but I think they're as thick as [REDACTED] when it comes of other feelings..."

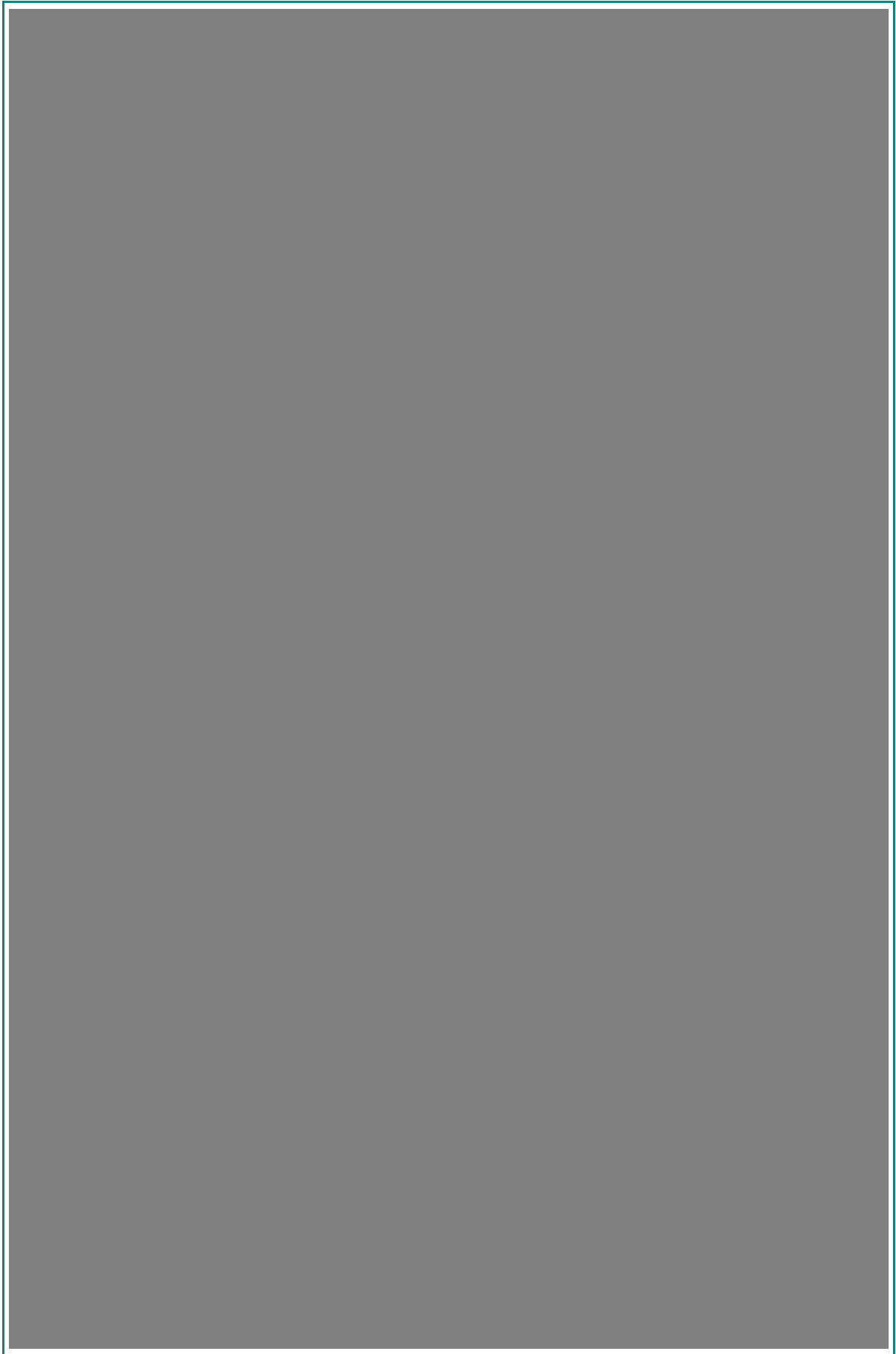
"...perhaps you could make me a facemask like yours that simply says [REDACTED] ff [REDACTED] I'm not sure I'd get away with it at work though. It would certainly raise a few eyebrows and perhaps make people realise they can't [REDACTED] walk off over me, or, other people for that matter"

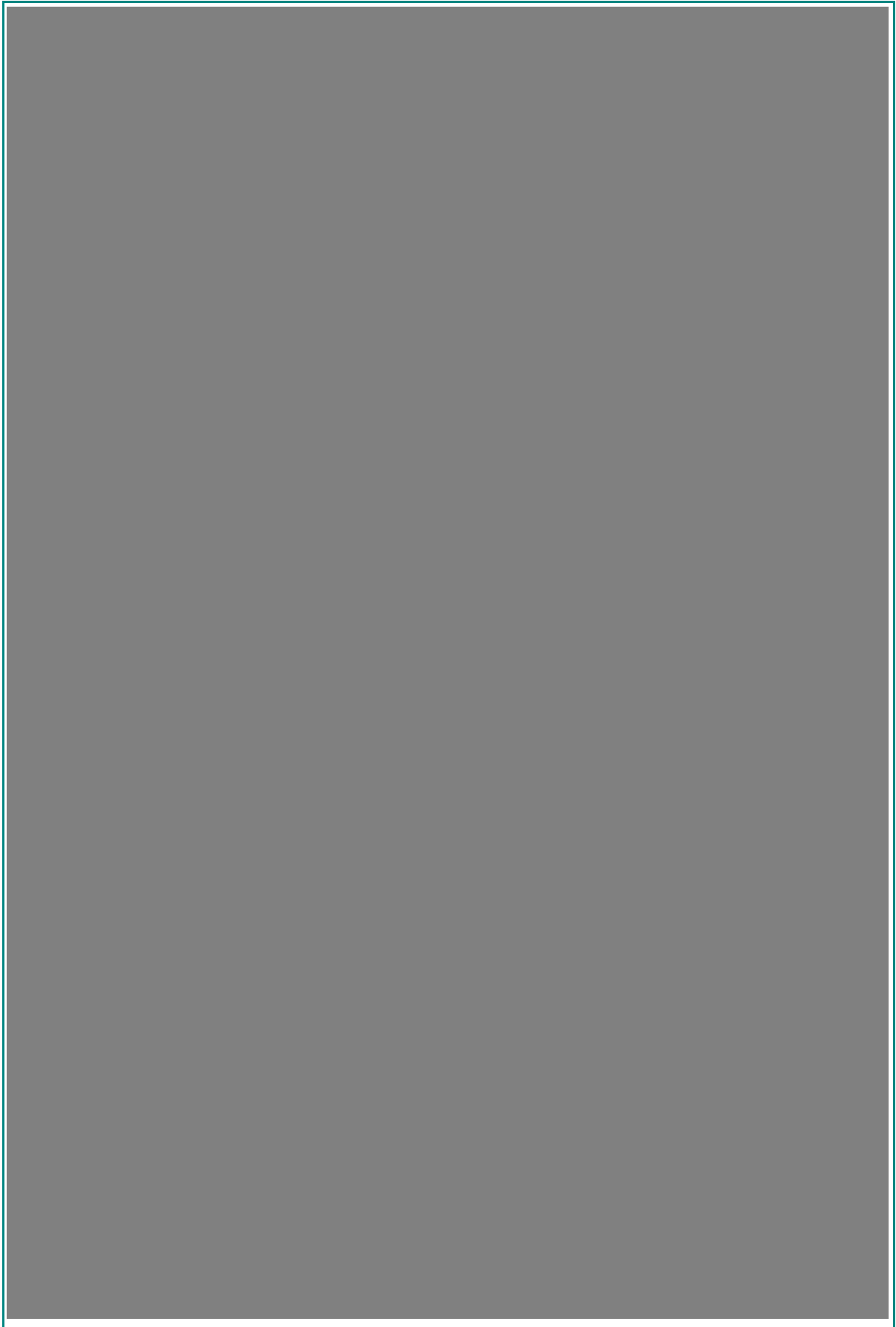
The employer held an internal meeting on 13 August 2020 with the social worker. Within this meeting the social worker was asked about the social media posts. The social worker is recorded as saying they were 'angry' and 'there was no ill will just anger.' The social worker accepted there would be colleagues who would have seen the posts, approximating seven or eight staff members.

The social worker, within their submissions to Social Work England admits the regulatory concern. They state: *"Yes, my communications could have been better on this occasion when I upset my colleagues regarding my thoughts on the semi-dressed women."*

From the evidence available, the case examiners are satisfied that there is a realistic prospect of adjudicators finding the facts proven in relation regulatory concern 1(a).







Grounds

The case examiners will now consider if the concerns that are capable of being found proven, could amount to the statutory grounds of misconduct.

There are generally considered to be two types of misconduct. These are (either of the following):

- misconduct which takes place in the exercise of professional practice
- misconduct which occurs outside the exercise of professional practice but calls into question the suitability of the person to work as a social worker.

In this case, as the alleged conduct is said to have occurred outside the exercise of professional practice, it is the second element of misconduct (as set out above) that the case examiners will consider.

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

To help them decide if the evidence suggests a significant departure from professional standards, the case examiners have considered the following Social Work England professional standards, applicable at the time of the concerns:

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.

5.6 Use technology, social media, or other forms of electronic communication unlawfully, unethically, or in a way that brings the profession into disrepute.

The case examiners note that the social worker states that they have a 'closed' group of 'friends', use an alternative first name and do not make reference to where they work on their social media account. The case examiners note these perceived security steps taken by the social worker, however, this did not make the social worker's postings 'anonymous' as the social worker asserts, had they been then this case would never have materialised.

There is an expectation that social worker's demonstrate high standards of conduct in their personal and professional lives. The case examiners have concluded that the alleged conduct could indicate values and beliefs which may be seen as at odds with social work

values. The alleged conduct is therefore likely to be viewed by adjudicators as serious and a significant departure from the professional standards referenced above.

As such, the case examiners are satisfied there is a realistic prospect of adjudicators finding regulatory concern 1(a) amounts to misconduct.

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 has indicated that they accept the regulatory concern.

The social worker has provided submissions and the case examiners note that they appear to contain conflicting statements. The social worker states, when discussing the social media response to the image, they accept it was *'direct discrimination and victimisation of an unknown individual/s due to their personal choices.'* However, within the next paragraph states, when discussing their choice of language, *'I cannot retract these statements. They are a statement of fact about how I feel personally.'* The social worker states they *'stand by' what they said on social media.*

Although the case examiners note the extensive narrative provided by the social worker, they are not confident the social worker has demonstrated sufficient insight into their conduct and there are no outlined strategies as to how this conduct would be avoided in the future.

Having considered the evidence available, the case examiners consider the risk of repetition to be present given the apparent lack of insight and no evidence of remediation.

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.

The case examiners take the view that the public would consider posting comments on social media, which were challenged publicly as discriminatory and victim blaming, as conduct not expected of a social worker. The alleged conduct is likely to be perceived to demonstrate a discriminatory and judgemental attitude, which conflicts with core social work values and has the potential to bring the social work profession into disrepute. Furthermore, the case examiners consider that the social worker's alleged conduct may lead the public to question the social worker's ability to make unbiased decisions in a professional context.

Adjudicators may determine, therefore, that the public would expect a finding of impairment in this case to remind the social worker, the profession, and the public of the expected professional standards. Furthermore, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

Accordingly, the case examiners are satisfied there is a realistic prospect of adjudicators making a finding of impairment.

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 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 issue 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	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	3 years	

Reasoning

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.

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

The case examiners determined that taking no further action was not appropriate as it would not be sufficient to mark the seriousness with which the case examiners view the social worker's conduct and fails to safeguard the wider public interest.

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 view the social worker's conduct.

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 conduct was outside of practice. A 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' and it is not an isolated incident.

The case examiners consider that a three-year warning order would be sufficient for the social worker to demonstrate they have embedded any reflection into their daily use of social media and therefore addressed any risk of repetition, demonstrating 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 of practice would be appropriate where the conduct was directly aligned to practice. A conditions of practice order was not appropriate given there are no concerns about the social worker's professional practice. The case examiners considered that suspension from the register would 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 14 days in which to provide their response.

Content of the warning

The case examiners warn the social worker that they have a duty to ensure their conduct, specifically with regard to the use of social media, remains in line with Social Work England Professional Standards (2019) at all times. It is essential that future online communication by the social worker does not include content that may be perceived as discriminatory, or offensive in nature.

In particular, the case examiners highlight the following standards that the social worker must continue to reflect and act upon, to ensure they consistently uphold the standards expected of them:

Promote the rights, strengths and wellbeing of people, families and communities

As a social worker, I will:

1.5 Recognise differences across diverse communities and challenge the impact of disadvantage and discrimination on people and their families and communities.

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.

5.6 Use technology, social media, or other forms of electronic communication unlawfully, unethically, or in a way that brings the profession into disrepute.

This warning will be considered if further fitness to practise referrals are received by Social Work England, should the concerns be similar in nature. The social worker is warned that any further regulatory concerns, if proven, are likely to result in a more serious outcome.

Response from the social worker

The social worker responded by email on 10 March 2023 and confirmed that they accepted the case examiners decision in full.

Case examiners' response and final decision

The case examiners concluded that the social worker's fitness to practise was likely to be found impaired but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning with a duration of three years and on 10 March 2023, the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, the case examiners have considered again whether there would be a public interest in referring this matter to a public hearing. They remain of the view that this is unnecessary for the reasons set out earlier in the decision.

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, they remain of the view that an accepted disposal by way of a warning is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.