

Case Examiner Decision
Lisa Louise Evans – SW47415
FTPS-19763

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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 5 years
Final outcome	Accepted disposal – warning order 5 years
Date of the preliminary decision	2 March 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 grounds of conviction or caution in the United Kingdom for a criminal offence and misconduct;
3. The adjudicators could conclude that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and that the case 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 5 years, the social worker accepted this proposal.

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

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's current employer, Sheffield City Council.
Date the complaint was received	31 August 2021
Complaint summary	The referral details that Lisa Evans, hereafter referred to as 'the social worker', had been arrested for, and would be charged with, drink driving. In addition to this, the social worker was subject to bail conditions pertaining to police enquiries regarding child neglect. Further information suggests the social worker had been driving with their child in the car.

Regulatory concerns

Whilst registered as a social worker:

1. On the 22nd September 2021 at Sheffield Magistrates Court, you were convicted of driving a vehicle whilst over the prescribed alcohol limit.

Grounds of impairment

In relation to regulatory concern 1, by reason of your conviction, your fitness to practise as a social worker is impaired.

2. You failed to safeguard Child A by driving the car they were passenger in whilst intoxicated.

Grounds of impairment

In relation to regulatory concern 2, by reason of your misconduct, your fitness to practise is impaired by your misconduct.

Preliminary issues

Investigation		
Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?	Yes	☒
	No	☐
Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?	Yes	☒
	No	☐
Are the case examiners satisfied that they have all relevant evidence available to them, or that adequate attempts have been made to obtain evidence that is not available?	Yes	☒
	No	☐
Are the case examiners satisfied that it was not proportionate or necessary to offer the complainant the opportunity to provide final written representations; or that they were provided a reasonable opportunity to do so where required.	Yes	☒
	No	☐

The realistic prospect test

Fitness to practise history

The case examiners have been informed that there is no previous fitness to practise history.

Decision summary

Is there a realistic prospect of the adjudicators finding the social worker's fitness to practise is impaired?

Yes

☒

No

☐

The case examiners have determined that there is a realistic prospect of regulatory concerns 1 and 2 being found proven, that regulatory concern 1 could amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence, and that regulatory concern 2 could amount to misconduct. Further, there is a realistic prospect that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker:

1. On the 22nd September 2021 at Sheffield Magistrates Court, you were convicted of driving a vehicle whilst over the prescribed alcohol limit.

The case examiners have had sight of evidence by way of the social worker's disclosure and barring scheme (DBS) certificate, alongside information from the court such as a notice of offences, a notice of fine and collection order, and a community order document, which indicates the social worker was convicted on the date above of driving a motor vehicle with excess alcohol. This related to an incident that occurred on 28 August 2021.

The case examiners note that whilst the DBS states South Yorkshire Magistrates Court, the additional court documentation, as described above, confirms the case was heard at Sheffield Magistrates Court.

The social worker in their submissions admits this regulatory concern.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding this concern proven.

2. You failed to safeguard Child A by driving the car they were passenger in whilst intoxicated.

Having reviewed the evidence, including a police report dated 30 August 2021, the case examiners note that the social worker was reported to be driving with Child A in the passenger seat.

The case examiners are aware that the legal limit of alcohol is 35 micrograms per 100 millilitres of breath. The evidence indicates the social worker had 116 micrograms in their breath, suggesting the social worker was at least three times over the legal drink driving limit. The evidence indicates the social worker crashed into two cars, appeared to be slurring their words and appeared confused. The case examiners are satisfied that the evidence indicates the social worker drove their car whilst intoxicated.

Driving whilst intoxicated seriously impairs a person's ability to drive safely, as the evidence supports in this case. Inherently, this creates a real risk of harm to any person in the vehicle driven by an intoxicated driver, in this case Child A. The evidence suggests the social worker was the sole adult in charge of Child A at the time of the alleged incident who, as a young child, was reliant on the social worker to make decisions in their best interest, and to keep them safe. The evidence suggests the social worker did not do this, and that by having child A as a passenger in the car whilst intoxicated, they failed to safeguard them.

The social worker in their submissions admits this regulatory concern.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding this concern proven.

Grounds

As the case examiners consider regulatory concerns 1 and 2 to have passed the realistic prospect test of being found proven by adjudicators on the basis of facts, they will now

consider the relevant statutory grounds of impaired fitness to practise which is that of conviction or caution in the United Kingdom for a criminal offence and / or misconduct.

Conviction

Having had sight of the social worker's disclosure and barring service (DBS) certificate and associated correspondence from the courts in relation to this offence, the 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.

Misconduct

The case examiners note 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, the conduct is alleged to have occurred outside the exercise of professional practice.

The case examiners are aware that misconduct must be serious and represent a risk to the public or to the wider public interest. The case examiners have considered what adjudicators may reasonably expect from the social worker and how they may view the social worker's alleged conduct in relation to the following Social Work England professional standards that were in place at the time of the allegation:

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

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.

The case examiners note that conduct outside of work, including but not limited to criminal behaviour, can damage the confidence in the profession and the ability of social workers to support people. Acting in accordance with the values and principles of the profession at all times is also outlined in social work codes of ethics. In this case, the social worker is alleged to have driven a car whilst intoxicated with a young child as a passenger, thereby failing to safeguard them.

The evidence suggests the social worker was investigated for child neglect, although it appears the police decided to take no further action regarding this. However, the case examiners consider that the social worker's alleged actions had the potential to put

themselves, and others, at risk of serious harm. The evidence suggests the social worker crashed into two parked cars, and had initially tried to leave the scene of the accident. The case examiners note that whilst the child did not appear to have experienced physical injury, the evidence notes the *“young child appeared to be panicking and hyperventilating”*. The case examiners are of the view it is not unreasonable that they consider this to be evidence of emotional distress. The case examiners are unaware of any longer term impact as a result of this.

The case examiners consider this matter is serious and, if proven, would represent a significant departure from the standards. The case examiners therefore consider that there is a realistic prospect of the adjudicators finding the concerns amount to misconduct.

Impairment

The case examiners must next consider whether there is a realistic prospect of adjudicators finding current impairment. The case examiners are aware they must assess both the personal and public elements of current impairment. They will consider each in turn.

Personal impairment

In considering personal impairment, the case examiners have considered the test for personal impairment as set out in the case examiner guidance, namely whether the conduct is remediable; whether the social worker has undergone remediation and demonstrated insight; and whether there is a likelihood the matters alleged will be repeated.

The case examiners do consider that the social worker’s alleged conduct could be remediable, for example, by completion of a relevant driving course and critical reflection. In their submissions the social worker states they have completed a drink driving course although the case examiners have not had sight of evidence of this.

The case examiners have had sight of confirmation that the social worker has independently accessed further support [REDACTED].

The case examiners note that the evidence indicates the social worker notified their manager of their arrest at the earliest opportunity. In recognition that their conduct was unacceptable, the social worker has considered what they should have done differently and provided full and deep reflections to the regulator. In these they state:

“I fully understand and appreciate that my misjudgement on that day could have resulted in fatal consequences by that of cause of death or injury to both [REDACTED] and myself as well as the wider public. I [sic] grateful that this was not the case and I am happy to report that [REDACTED] myself and no others were harmed or injured as a result of my reckless

behaviour and decision making on that day. I fully accept how my standing as a qualified social worker could be in question and how my ability to practise could be negatively perceived by the public given the incident and my actions on that day. I am fully aware that I am in a position of trust and viewed as an advocate of the public and not that of a figure in society who should or find it acceptable to behave in such an irresponsible manner either inside or outside of the workplace...This is something that I feel truly ashamed of and remorseful for and I will carry this guilt and the events of that day with me for rest of my life."

Evidence from the social worker's employer has confirmed that there are no fitness to practise concerns in respect of the social worker. Further, they have confirmed the social worker has reflected on the alleged conduct in supervision and specific meetings and that they have full confidence in the social worker's ability to continue in their role and uphold the professional values and practice standard expected of them. The case examiners have also had sight of positive testimony regarding the social worker's character.

Whilst the case examiners are of the view the social worker has demonstrated insight into the impact of their actions on the public confidence in the wider profession, they note from the evidence that the social worker remains disqualified from driving having been disqualified for 27 months from 22 September 2021. As such, the case examiners consider remediation to be incomplete and cannot exclude the possibility that there remains a risk of repetition.

Public interest

The case examiners must now consider the public interest in this matter namely, does the conduct put the public at risk; is the conduct a significant departure from the Standards; and does the conduct have the potential to undermine trust and confidence in the profession?

Having had regard to Social Work England's drink and drug driving policy (2022) the case examiners consider that there appears to be a number of aggravating factors in this case:

- the evidence indicates the social worker was disqualified from driving for 27 months from 22 September 2021 (reduced by 27 weeks upon completion of a driving course).
- the evidence indicates the social worker was involved in a road traffic collision by way of crashing into two parked cars.
- the evidence suggests the social worker was three times over the legally specified limit. The case examiners consider this to be serious.
- the evidence indicates the social worker was carrying a vulnerable child in their vehicle at the time of the offence.

- the evidence suggests that while the social worker cooperated with the police, it appears they considered leaving the scene of the accident and was stopped by a member of the public.

Having considered the aggravating factors the case examiners note that there are also a number of mitigating factors:

- the offence in question not being a repeat offence. The evidence suggests the alleged behaviour is out of character for the social worker.
- the social worker's submissions demonstrate remorse and insight in relation to the offending behaviour.
- the social worker is otherwise of good character. The case examiners have been provided with testimony of this.
- the social worker appears to have undertaken voluntary relevant remediation including (but not limited to) completing relevant driving courses (for example a drink-drive rehabilitation course).

Whilst the case examiners are satisfied the social worker has learnt from the incident and may be unlikely to repeat the alleged conduct, they are mindful that the period of disqualification hasn't come to an end for them to be confident of this. Further, the case examiner guidance (2022) states that potential risk of harm should be considered as serious as actual harm. In this instance, not only could the social worker have harmed anyone on the road at the time, they also could have potentially harmed the child that they were transporting.

The case examiners are of the view that adjudicators may determine that a member of the public would be concerned to learn that a social worker had been allowed to practise without sanction from their regulator, given the aggravating factors associated with this case.

Adjudicators may consider there is potential risk of harm to the wider public in terms of their ability to trust and have confidence in a social worker who is alleged to have acted in this manner. Furthermore, the social worker's actions may undermine public confidence in the social work profession. The case examiners also consider that such conduct, if proven, is a significant departure from the professional standards.

As such, given the element of public interest, the case examiners are satisfied that there is a realistic prospect of the adjudicators making a finding of current 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

With reference to their case examiner guidance (2022) the case examiners have given careful consideration to whether there is a public interest in these matters proceeding to a hearing.

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired. Where a social worker does not accept impairment, case examiner guidance suggests that a referral to hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance.

As outlined above, the case examiners are satisfied that the matters are not so serious that a public hearing would be necessary to maintain public confidence in social workers, or in Social Work England's maintenance of professional standards for the profession.

The case examiners note there is no conflict in the evidence in this case and the social worker does not dispute any of the key facts. They are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order to satisfy the public that this risk is being managed without the need for this to be examined within a public hearing.

The case examiners note that the social worker is clear that their alleged conduct fell short of the standards expected of them; *"I am conscious of how the public's perception in my ability to practise as a qualified social worker could be viewed negatively; as that of irresponsible and unfit, given my role in society is to protect and safeguard vulnerable adults and the greater good from the risk of harm."*

The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise. 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	X
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	5 years	

Reasoning

The case examiners are satisfied there is a realistic prospect of the concerns being found proven by adjudicators. Furthermore, they have found a realistic prospect that the two concerns, if proven, would amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence, and misconduct respectively. The case examiners have also found a realistic prospect that adjudicators would find the social worker's fitness to practise is currently impaired. The case examiners have decided however, that it is not in the public interest to refer this matter to a final hearing.

In considering the appropriate outcome in this case, the case examiners have had regard to Social Work England's sanctions guidance (2022) 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 concluded this would not be appropriate in this instance as it would be insufficient to address the seriousness of the concerns.

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 are of the view 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.

The case examiners have considered the length of time for the published warning and consider five years to be proportionate in this case. The case examiners note the guidance suggests five years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration, and helps to maintain public confidence and highlight the professional standards. The timeframe presents an extended period over which the social worker must demonstrate that there is no risk of repetition. The case examiners consider an allegation of drink driving whilst three times over the legal limit, resulting in a conviction, and failing to safeguard a child who was a passenger in the car, as serious enough to have fallen only marginally short of requiring restriction.

As illustrated in their assessment of impairment, the case examiners are not satisfied there is no risk of repetition due to remediation being incomplete.

The case examiners further considered this by turning their minds to the next two sanctions, conditions of practice and suspension. They concluded that conditions were more relevant in cases requiring some restriction of practice and were not suitable for this case, due to the nature of the alleged concerns being specific to matters in the social worker's personal life and positive testimony regarding the social worker's current employment. The case examiners further considered that suspension from the register would be a disproportionate and punitive outcome in this case.

The case examiners have therefore decided to propose to the social worker a **warning order of 5 years**. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered **14 days** to respond. If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Content of the warning

The case examiners are aware that regarding the matters in this case the social worker has already been dealt with by the criminal justice system, and that it is not the purpose of the fitness to practise process to punish them for a second time.

To close this matter without action would, however, fail to take into account the public interest requirements of the fitness to practise process, which include the need to declare and uphold proper standards of conduct, and the need to maintain public confidence in the social work profession.

A social worker driving whilst over the prescribed alcohol limit is completely unacceptable and demonstrates a lack of judgment. This, together with having a child as a passenger at the time, creates a significant risk of harm to the child, and to members of the public. The case examiners therefore consider a warning in this case is necessary to declare and uphold proper standards of behaviour and conduct, as well as to mark the serious impact which such behaviour can have on the reputation of the profession.

Further, the case examiners consider the warning should stay on the social worker's entry in the register for a period of five years. The case examiners consider this is appropriate and proportionate in the circumstances for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers. The period also allows more time for the social worker to demonstrate that they have successfully addressed any risk of repetition.

The case examiners therefore formally warn the social worker:

- Reports of a social worker driving whilst over the prescribed alcohol limit will have an adverse effect on the public's confidence in the social work profession.
- It is essential for social workers to stay alert to suspected harm, neglect or abuse. Allegations of a social worker failing to safeguard a child are serious.
- Professional integrity in social work means upholding the values and reputation of the profession at all times. Conduct outside of work, including but not limited to criminal behaviour, can damage the confidence in the profession and the ability of social workers to support people. Acting in accordance with the values and principles of the profession at all times is also outlined in social work codes of ethics.

The social worker must ensure they comply with the following Social Work England Professional Standards:

- Standard 5.1 I will not abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.
- Standard 5.2 I will not behave in a way that would bring into question their suitability to work as a social worker while at work, or outside of work.

The case examiners warn the social worker that the conduct alleged in this case should not be repeated. Any further matters of similar conduct brought to the attention of the case examiners will be viewed dimly and will likely result in a more serious outcome.

Response from the social worker

The case was returned to the case examiners on 18 April 2023.

The case examiners have reviewed the response from the social worker 30 March 2023. They note that the social worker has signed to confirm they understand the terms of the proposed disposal of their fitness to practise case and accept them in full.

Additionally, the social worker has attached confirmation of completion of a Reform Drink Drive Awareness Course certificate dated 7 March 2022. The social worker confirm their driving ban is due to end on 15 June 2023.

Case examiners' response and final decision

The case examiners have again considered the public interest in this matter. Whilst noting completion of the driving awareness course which is positive, the absence of this was not key to the case examiners decision when considering the appropriate sanction, or length of the proposed sanction. The case examiners are satisfied that it remains to be the case that the public interest in this case can be fulfilled through the accepted disposal process.

The case examiners therefore direct that Social Work England implement a warning order with a duration of 5 years.