



Case Examiner Decision
Graham Bruce Robertson –
SW34075
FTPS-19747

Contents

The role of the case examiners.....	3
Decision summary.....	4
The complaint and our regulatory concerns	6
Preliminary issues	8
The realistic prospect test.....	9
The public interest	23
Accepted disposal	25

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 – removal order
Final outcome	Accepted disposal – removal order
Date of the preliminary decision	28 March 2023
Date of the final order	4 May 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 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 consider 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 sanction of removal order. The social worker accepted the case examiner's proposal in full. The case examiner's again considered the public interest and remain of the view that a removal order remains the minimum necessary to protect the public and maintain public confidence in the profession.

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 former employer, Catholic Care.
Date the complaint was received	5 October 2021
Complaint summary	The former employer raised concerns that they had received information suggesting that the social worker had not kept records in relation to children they had been working with, and that a review indicated that this may have been a longstanding issue. Also, following their dismissal, the social worker allegedly continued to contact children and young people, with whom they were no longer working.

Regulatory concerns

While registered as a Social Worker:

1. In or around December 2019 to July 2021, you failed to safeguard children by not communicating or sharing information with appropriate agencies.
2. In or around December 2019 to July 2021, you failed to attend staff meetings as required, respond to emails or complete work as requested by management.
3. In or around December 2019 to July 2021, you failed to maintain clear, accurate, legible and/or up to date records.
4. In or around December 2019 to July 2021, you used confidential information without a legitimate purpose in that you retained personal contact details of children and families who you no longer work with as a social worker.

5. In or around December 2019 to July 2021, you failed to maintain a professional relationship in that you:

- a. Attempted to contact a young person who was no longer allocated to you and without professional reason to do so.



- c. Spoke to children you worked with about your religion
- d. Shared your personal phone number with children and young people you worked with.

6. You failed to make a self-referral to Social Work England following your dismissal.

7. On 15 September 2021, you provided misinformation to Social Work England.

8. Your actions in regulatory concern (7) were dishonest.

The matters outlined in regulatory concern (1) (2) (3) (4) (5) (6) (7) and (8) amount to the statutory grounds of misconduct.

The matters outlined in regulatory concern (1) (2) and (3) amount to the statutory grounds of a lack of competence or capability.

Your fitness to practise is impaired by reason of misconduct and/or lack of competence or capability.

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, 2, 3, 4, 5a, 5c, 5d, 6, 7 and 8 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

While registered as a Social Worker:

1. In or around December 2019 to July 2021, you failed to safeguard children by not communicating or sharing information with appropriate agencies.

The case examiners have carefully considered all of the information presented to them in relation to concern 1, which includes the following:

- notes of a telephone call from a head teacher to the social worker's employer, reporting that it had come to light that the social worker had failed to share information with the school that a child had informed them that their sibling had tried to end their life. The social worker had also not recorded the information on the system.

- notes from the employer's internal investigation, which document a meeting held between the social worker and their manager. In this meeting, concerns were raised with the social worker about the safeguarding and wider recording issues; the social worker was reported to have responded, *'I have been expecting this for a while'*.
- notes from the employer's disciplinary hearing on 9 July 2021, where these matters were discussed. Within this hearing the social worker stated that they had shared the information verbally with a staff member, who had asked them to place a record on the child protection system. The social worker stated that they had not kept up to date with records since starting at Catholic Care, and that they had intended to *'get round to putting (the information) on (the) system but didn't'*.
- initial submissions to the regulator, in which the social worker has accepted this concern. The social worker stated that a parent had shared this information and they had agreed to provide this information to the school. The social worker stated that at the end of the day, they had spoken with the safeguarding lead 'quickly', who directed the social worker to put the information on the system. The social worker stated that due to computer issues, they were unable to do this at school, so waited until they returned home, but *'then it slipped my mind for about 5-6 days before being logged'*.

In considering whether the social worker failed to do something, the case examiners have considered what was expected of them. The evidence suggests that the social worker should have shared and recorded safeguarding concerns on the school system, and that they were aware of this responsibility, which would ensure that the school and other agencies were aware of the current risks to any children. However, it appears they failed to take the required actions, or did not do so in a timely manner.

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

2. In or around December 2019 to July 2021, you failed to attend staff meetings as required, respond to emails or complete work as requested by management.

The case examiners have carefully considered all of the information presented to them in relation to concern 2, including notes from the employer's internal investigation and from the employer's disciplinary hearing.

Within these notes, there is evidence to indicate that the social worker did not attend staff meetings, and that their manager sent emails and directed work to be completed, but the social worker did not respond. For instance, the social worker was asked to produce an impact measure for the school's team, but does not appear to have completed this work. The social worker, within the employer's meeting, accepted that they did not attend

meetings or respond to emails. The social worker stated, *'I didn't deliberately miss them, I got involved in something else, not avoided'* and *'I got in the habit of going home and not checking the computer all the time, I am not an IT person. I had not looked at the phone may be the whole day and 2 or 3 days before I looked at computer'* (sic).

The social worker, in their submissions, has accepted this concern.

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

3. In or around December 2019 to July 2021, you failed to maintain clear, accurate, legible and/or up to date records.

The case examiners have carefully considered all of the information presented to them in relation to concern 3, including the following:

- minutes from the employer's internal investigation, which suggest the social worker was not completing notes in respect of the children with whom they were working. For example, the employer has confirmed that there are no electronic records for children with whom the social worker was working prior to May 2020 and, for some schools, the last records were September 2019.
- a transcript of a telephone conversation with a Headteacher of one of the schools where the social worker was completing work. Within this conversation, the Headteacher has stated they asked the social worker to update a case management system in relation to all year 6 pupils in preparation for their transition to high school. They state that this had been requested for some time, but had not been done. The Headteacher was also unsure what work was being done with the children.
- photographs of records which are alleged to be the social worker's handwritten notes, along with confirmation from the employer that the social worker brought two bags of shredded documentation into the office, stating that these were also records relating to the children. The photographs appear to show notes which, in the opinion of the case examiners, are hardly legible, are brief in context, and appear to be rough reminders or comments, rather than comprehensive notes. For instance, dates are not always present on the notes, or on one page, the notes appear to relate to visits/interactions with seven young people the social worker had seen, but there are only numbers or one line of text to record each interaction with the young person.
- information from the social worker, both within the internal investigation and in their submissions to the regulator, in which they admit that they had not completed

case notes for any of the children with whom they were working. The social worker states, *'I had not maintained up to date records. I let it get out of control, for too long. It then became too difficult and embarrassing for me to say anything about it to my work colleagues. So, to a large degree, I pushed it to one side, recorded information when I could and hoped that I might fall upon a solution and catch up at some point'*.

In considering whether the social worker has failed to do something, the case examiners have considered what would be expected in the circumstances. The evidence suggests that the social worker was expected to maintain records in relation to the children they were working with. The case examiners are satisfied that the evidence suggests that the social worker did not maintain clear, accurate, legible or up to date records.

As such, the case examiners are satisfied there is a realistic prospect of adjudicators finding this concern proven on facts.

4. In or around December 2019 to July 2021, you used confidential information without a legitimate purpose in that you retained personal contact details of children and families who you no longer work with as a social worker.

In considering the evidence relating to this concern, the case examiners have noted minutes from subsequent meetings held both by the employer and the Local Authority Designated Officer (LADO), in which these concerns were discussed. The evidence suggests that the social worker admitted to contacting the young person after their dismissal from employment, and had provided the context for doing so. The social worker stated that as they no longer had their work phone, they had kept the details in order to contact people from their personal phone after their employment had ended. The evidence suggests that the social worker had kept around 8-10 contacts.

The social worker, in their submissions to the regulator, has accepted this concern.

From the evidence presented to them, the case examiners are of the view that, following their dismissal, the social worker kept confidential information, i.e., the contact details of the children and families with whom they had worked. As the social worker was no longer professionally involved with the children or families, the case examiners do not consider that the social worker would have had a legitimate purpose for keeping this information.

As such, the case examiners are satisfied that there is a realistic prospect of adjudicators finding this concern proven on facts.

5. In or around December 2019 to July 2021, you failed to maintain a professional relationship in that you:

a. Attempted to contact a young person who was no longer allocated to you and without professional reason to do so.

In relation to this concern, the case examiners have particularly noted evidence from two sets of minutes of Children's Services Integrated Safeguarding Unit Allegations Management Meetings, undertaken to discuss this concern. The evidence suggests that a young person contacted the social worker's former employer to advise them that the social worker had contacted them via mobile phone. The social worker had also been in contact with the young person's father, asking if they could continue to provide support, even though they were no longer employed by the agency. The evidence indicates that the social worker made contact on three occasions. Subsequent enquiries by the local authority established that the child concerned was a vulnerable person who had previously been open to children's services.

The case examiners have seen within the employer's investigation records, that the social worker admitted, when asked over the phone on 12 October 2021, making contact with the young person. Notes from a meeting held with the social worker on 13 October 2021 suggest that the social worker gave a consistent account, agreeing that they had made contact with the young person and their father, despite their professional relationship ending. The case examiners note that the social worker suggested to their employer that they were a male role model and father figure to some of the young people that they worked with, and that the young people *'would feel loss at his absence'*. Further, the social worker also queried with their employer *'when would it be an appropriate time frame for him to contact young people he had previously worked with'*. The manager reports having to reiterate to the social worker that it would never be appropriate for the social worker to contact the young people, when they were no longer working in a professional relationship.

The social worker, in their submissions, has accepted this concern.

Based on the evidence presented to them, the case examiners are of the view that the social worker was no longer working with the young person and thus had no professional reason to contact them; they consider that the social worker had therefore failed to maintain a professional relationship with the young person concerned.

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

c. Spoke to children you worked with about your religion

The case examiners note that, while the evidence in respect of this concern is limited, the minutes from the two Children's Services Integrated Safeguarding Unit Allegations Management Meetings held in respect of concerns raised in regulatory concern 5a, make reference to the social worker talking about their religion to one young person, who was reported to have stated the social worker was 'pushy' about their religion.

The case examiners note that, in their submissions, the social worker has accepted this concern, and has stated that they *'have always been enthusiastic about sharing (their) faith'* and that what they have done, *'over the years, in all sorts of work and personal situations, is shared testimonies of challenges that God has brought me through and occasionally scripture that has applied to those situations'*. The social worker also indicates some acceptance that their actions could have been perceived as 'pushy', although they state they did not intend to be so. They submit that they would consider themselves to be *'enthusiastic, rather than 'pushy', about (their) beliefs, but ... can understand if someone interprets it in this way'*.

The case examiners are satisfied that there is evidence to indicate that there is a realistic prospect of adjudicators finding this concern proven on facts.

d. Shared your personal phone number with children and young people you worked with.

The case examiners have outlined the evidence in regulatory concern 5a, that the social worker used their personal phone number to make contact with the young person and as such has shared their personal phone number.

The case examiners have further noted the social worker's submissions where they state, as they had to return their work phone to their employer, they had to share their personal

number in order to make contact with the young person as outlined in regulatory concern 5a.

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

6. You failed to make a self-referral to Social Work England following your dismissal.

The case examiners note that this concern has been raised by the regulator, and no evidence of a self-referral has been provided.

The social worker, in their submissions, has accepted this concern. They state, *'this is correct, I did not make a self-referral to Social Work England, following my dismissal. I suppose I was still coming to terms with what had happened, and I just found it easier to manage it in my mind by doing other things and not thinking about it'*.

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

7. On 15 September 2021, you provided misinformation to Social Work England.

The case examiners have seen a screenshot of the social worker's request for voluntary removal on 15 September 2021. The screenshot shows that the social worker ticked to confirm that they were *'unaware of any current allegation, investigation, proceedings, or order which may result in action being taken against (them)'*.

The case examiners have noted the chronology of events:

- The social worker was dismissed from their post on 15 July 2021 and the social worker was informed of this decision in writing.
- The employer raised their concern with Social Work England on 5 October 2021.

The social worker, in their submissions to the regulator, stated that they misunderstood the question relevant to this concern. They thought that the question was only in relation to the investigation by their former employer and, as they had been dismissed from their employment, the question only related to the employer's action against them, which had already concluded.

The case examiners are of the view that the social worker was aware that action had been taken against them, as they confirm that they were aware of their dismissal from employment. The case examiners accept that, at this stage, concerns had not been raised with the regulator; however, the social worker was themselves under a professional duty to raise them, this was not the responsibility of their employer. The case examiners consider

that, as the social worker was aware of their dismissal, but ticked a box indicating that they were unaware of any action, then the social worker was misinforming Social Work England.

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

8. Your actions in regulatory concern (7) were dishonest.

When considering dishonesty, the case examiners have applied two tests, in line with relevant case law. Firstly, they have assessed the evidence to establish what adjudicators may determine the social worker's actual state of knowledge or belief was at the relevant time (the subjective test). Secondly, they have considered whether the social worker's conduct could be deemed as dishonest by the standards of ordinary, decent people (the objective test).

In regard to the subjective test, the case examiners note the social worker's comments, in which they dispute that their conduct was dishonest. The social worker states that they felt that, as the action by the employer had concluded, this was not current; however they also accept that they should have self-referred the matter to their regulator. In their final submissions, the social worker also states that '*on the whole*' they '*agree to the 8 points of concern*' raised, and do not attempt to dispute the allegation of dishonesty.

The case examiners have considered whether the social worker had anything to gain by their conduct at concern 7, and from being, as alleged, dishonest. They are of the opinion that, if the social worker's application for voluntary removal from the social worker register was successful, then they would have been able to avoid fitness to practise proceedings by their regulator in relation to the alleged conduct resulting in their dismissal by their employer. This would also avoid the concerns, if subsequently found proven, being publicised. Their alleged failure to self-refer to their regulator, together with their alleged actions at concern 7, lead the case examiners to conclude that the social worker was likely to have been aware that their actions may have assisted them in avoiding regulatory proceedings.

The case examiners have carefully considered all of the available evidence, and the potential motivation to be dishonest. They are of the view that, the social worker's actions in confirming that they were unaware of any investigation or proceedings which may result in action being taken, when they were fully aware that action had already been taken, indicates that they would have known that their responses were not accurate, and that they were acting dishonestly.

In regard to the objective test, the case examiners consider that ordinary decent members of the public would consider a social worker withholding information to their regulator about their dismissal and providing misleading information, would amount to dishonesty.

As such, the case examiners consider there is a realistic prospect of adjudicators finding this concern proven on facts.

Grounds

Misconduct or lack of competence and/or capability

In relation to regulatory concerns 1, 2 and 3, the case examiners have been asked to consider whether the facts, if proven, would amount to the statutory grounds of lack of competence or capability and/or misconduct.

The case examiners have had regard to the case examiner guidance (2022), which states,

‘Lack of competence or capability is a separate and distinct category of impairment from misconduct. Lack of competence or capability suggests a standard of professional performance which is unacceptably low. It means a social worker has demonstrated that they may lack the knowledge and skills to do their work in a safe and effective manner. This must usually be demonstrated over a fair sample of a social worker’s work’.

The case examiners are aware that performing poorly when knowingly practising outside the social worker’s scope of practise may point to misconduct rather than a lack of competence or capability. The case examiners could summarise that, if a social worker knew what to do but did otherwise, this is more likely to point towards misconduct than a lack of competence or capability.

Having assessed the available evidence, the case examiners are of the view that the evidence suggests that the matters before them are more likely to amount to misconduct.

While the case examiners are satisfied they have access to a fair sample of the social worker’s work, noting that the alleged conduct in respect of recordings spans a significant time period (December 2019 to July 2021), there is substantial evidence that suggests the social worker was experienced and knew that there was a requirement to complete written records. In the disciplinary proceedings, they stated, *‘I am a senior social worker, nothing is too complicated, the recording, closing case and just volume built up and became unmanageable’ (sic).*

There is cogent evidence from discussions held with the social worker and their manager, that the social worker was fully aware of their responsibilities, aware of statutory guidance,

the importance of completing records and the need to prioritise this area of work, but failed to do so over a prolonged period.

Further, there is evidence to suggest that the social worker was fully aware of the procedure to follow when safeguarding concerns were raised with them in respect of any children. The social worker, in their submissions, referred to intending to take action, but it *'slipped their mind'*.

With respect to attending meetings, responding to emails and completing work as directed by management. The case examiners consider, that in order to remain up to date, update managers on risk and ensure that work is completed as directed, it is important that social workers engage with their organisation.

In light of the above, the case examiners are satisfied that there is no realistic prospect of adjudicators finding concerns 1, 2 and 3 amounting to the ground of lack of competence or capability.

The case examiners must now consider whether the facts of concerns 1-3, if proven, would amount to the statutory ground of misconduct. The case examiners will consider this together with regulatory concerns 1-8, with the exception of 5b, for which they did not find a realistic prospect of being found proven by adjudicators in relation to the facts.

Misconduct

The case examiners are aware that misconduct denotes serious acts or omissions which represent a significant departure from what would be proper in the circumstances or conduct that is morally reprehensible and likely to bring the profession into disrepute.

Therefore, the case examiners have considered what adjudicators may reasonably expect from the social worker, and how they may view the alleged actions/omissions by the social worker in relation to standards which were in place at the time of the alleged conduct, namely Social Work England Professional Standards (2019). The case examiners consider that the following standards may have been breached:

As a social worker, I will:

2.2 Be open, honest, reliable and fair

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives

3.6 Draw upon the knowledge and skills of workers from my own and other professions and work in collaboration, particularly in integrated teams, holding onto and promoting my social work identity

3.9 Make sure that relevant colleagues and agencies are informed about identified risks and the outcomes and implications of assessments and decisions I make

3.11 Maintain clear, accurate, legible and up to date records, documenting how I arrive at my decisions

4.5 Contribute to an open and creative learning culture in the workplace to discuss, reflect on and share best practice.

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.

The case examiners are aware that falling short of the standards may not always amount to misconduct, but they consider that adjudicators in this instance may determine that the threshold for misconduct has been reached. Where there has been an allegation of a social worker not taking action when made aware of safeguarding concerns, not keeping accurate records, not maintaining professional boundaries and not declaring their dismissal from employment as a result of these alleged actions, adjudicators are likely to view this as extremely serious.

The case examiners note that the social worker's alleged actions had the potential to cause harm to numerous people. Firstly, in terms of not taking action in respect of safeguarding concerns, this may mean that relevant professionals are not updated on safeguarding risks and any support required for the person and their family may not be put in place. In respect of not keeping accurate records, there is the potential for harm, as other professionals are not aware of work being completed with children, and there is no record of any risks or current circumstances. Finally, in respect of not maintaining professional boundaries, there is an inherent power imbalance in the relationship, and children and young people may feel a lack of choice in their interaction with the social worker, which has the potential to cause emotional or psychological harm. The case examiners note that at the meeting of 2 November 2021, it was reported that psychological harm had been caused to a child by the social worker's contact.

The alleged conduct also exposes a social worker to speculation regarding their potential motivations for wishing to maintain contact and relationships with vulnerable people in a personal, rather than professional setting. In this case, it is noted that the father of a

vulnerable child whom the social worker attempted to keep in touch with after their dismissal, raised concerns with professionals about whether their child had been kept safe, or whether social worker '*did anything*' to them. While there is no cogent evidence to indicate that the social worker harmed a child physically or sexually, or that their actions were motivated by any intention to do so, the fact that their actions caused a parent to worry that this may have been the case, highlights the wider potential harm that can be caused by a social worker failing to maintain professional boundaries, and the adverse impact on trust and confidence in them.

The case examiners were also particularly concerned about the wide-ranging number of concerns and length of time that the social worker had not maintained records for. They are of the view that the social worker showed complete disregard for the importance of prioritising this task, seeing this as secondary to their direct work with young people. Further, the case examiners were concerned about the social worker's understanding of their role in young people's lives, including their submissions to the regulator, where they refer to themselves as a '*father figure*' to young people. It is their view that members of public would be shocked to learn of the wide-ranging concerns raised in respect of this social worker.

Where it is alleged that a social worker has not taken action in respect of safeguarding concerns, this would not align with Social Work England standard 3.9.

Where it is alleged that a social worker has not maintained accurate, legible and clear records, this would not align with Social Work England standard 3.11.

Where it is alleged that a social worker has not maintained professional boundaries, this would not align with Social Work England standards 2.3 and 5.2.

Where it is alleged that a social worker has provided misleading information to their regulator, this would not align with Social Work England standards 2.2 and 5.2.

Where it is alleged that a social worker is not attending internal meetings, responding to work emails and not acting in accordance with management instructions, this would not align with Social Work England standards 3.6 and 4.5

If the matters were to be found proven by adjudicators, the case examiners conclude the conduct described is likely to suggest a significant departure from the professional standards detailed above.

The case examiners are satisfied there is a realistic prospect of adjudicators finding these matters amount to the statutory ground of misconduct.

Impairment

The personal element of impairment

In considering the personal element of impairment, the case examiners have considered the test set out in the case examiner guidance (2022), 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 note that it is difficult to remediate alleged conduct which arises from attitudinal or character flaws such as dishonesty and breaches of trust or abuse of position, although a social worker may at least attempt remediation by reflecting upon their conduct and trying to develop and demonstrate insight.

The social worker has shown no insight into their alleged conduct and, despite the alleged conduct occurring almost two years ago, the social worker does not appear to have expressed any remorse, or to have reflected or developed any insight into their alleged conduct. The case examiners are of the view that the social worker's final submissions seek to defend their actions, and do not show any regard for the impact/potential impact of their actions upon the children and young people with whom they were working. For instance, in respect of record keeping, the social worker queries the wording of the disciplinary hearing stating it *'makes it look like I specifically deliberately said no to recording my notes, when I just had not got around to it or couldn't do it in time'*.

Within the employer's disciplinary hearing, the social worker was challenged in terms of their rationale for contacting a young person after they had left their employment, and they referred to themselves as a male role model and that they knew the young people would feel a loss at their absence, after their dismissal. The social worker was reported to have repeatedly returned to asking when would be appropriate for them to contact young people, and appeared to lack any insight into why this was inappropriate or how this would be perceived by the young person, or by the wider public. In their submissions to the regulator in February 2022, the social worker stated, *'I don't mean to be boastful when I write the following so please try to read this the right way. I believe I was quite a liked member of the Catholic Care Schools Team and I got on extremely well with nearly all the children and parents I worked with. I believe, some of those children that I have worked with for many years viewed me as a friend and probably, in some cases, a bit of a father-figure'*.

The case examiners consider that the social worker has demonstrated no insight into the power imbalance and abuse of their position by contacting a young person and their family directly, when they no longer had a professional role in the families' life. Whilst the social worker has accepted all the concerns, they appear to lack insight into the gravity of the concerns, and the adverse impact this may have had. Further, the social worker has not expressed any regret for their actions or indicated how they may approach things differently in the future.

The case examiners note the social worker has not worked within social care since their dismissal, and they have not provided any evidence of remediation.

Therefore, in light of the lack of insight and remediation, the case examiners consider that a risk of repetition remains high.

The public element of impairment

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. Public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public's trust and confidence in the profession.

The case examiners consider there is evidence to indicate that the social worker did not maintain records over a prolonged period, did not report or record safeguarding concerns, did not maintain professional boundaries, and provided misleading information to their regulator. They consider that these wide-ranging concerns would be viewed very dimly by the public; they would be likely to be shocked to see such wide-ranging concerns relating to an experienced social worker, who they would expect to be able to meet the core tenets of their role, as well as be open and honest when they had been unable to do so. The case examiners consider the public would be concerned that the social worker does not appear to have learnt anything since their dismissal and does not appear to appreciate the impact on the service users, public confidence and the wider profession.

The case examiners are of the view 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 in these circumstances.

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 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

The case examiners have therefore considered whether a referral to a hearing may be necessary in the public interest. The case examiners have noted the following:

- There is no conflict in evidence in this case and the social worker has accepted the facts.
- Whilst it is unclear whether the social worker accepts whether their conduct is impaired as they have not addressed this within their submissions, the accepted disposal process will provide the social worker an opportunity to review the case examiners reasoning on impairment and reflect on whether they do 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 of the view that there remains a high risk of repetition, however they consider that this can be managed through other sanctions available to them.
- 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.

Interim order *

An interim order may be necessary for protection of members of the public	Yes	☒
	No	☐
An interim order may be necessary in the best interests of the social worker	Yes	☐
	No	☒

*The case examiners are aware that there is already an Interim Suspension Order in place which expires on 14 January 2024.

Accepted disposal

Case outcome

Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒

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 consider a sanction, the case examiners have considered mitigating and aggravating factors in this case:

Mitigating

- The social worker has accepted all of the relevant facts and did so, as soon as concerns were raised with them. They have not sought to hide their alleged conduct; albeit they do not appear to understand the adverse impact of it.
- The case examiners have not been made aware of any previous concerns in respect of the social worker's practice.

Aggravating

- The social worker has shown no insight into the alleged conduct and even with the passage of time, there appears to have been no reflection on their alleged actions.
- There has been no remediation undertaken.

- At the time of the alleged conduct, the social worker was a very experienced practitioner and indicated that they were aware of their responsibilities, particularly in respect of maintaining records.

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

No further action:

The case examiners determined that the misconduct was too serious for the case to be concluded with no further action. The case examiners noted earlier that they consider the risk of repetition remains high. The case examiners also noted the actual and/or potential harm caused to service users and their families, and that the public would be shocked to read the wide-ranging concerns raised in respect of this social worker. In light of this, the case examiners consider that taking no further action would not address the wider public interest considerations of maintaining public confidence in the profession.

Advice or warning order:

The case examiners similarly did not consider that issuing a warning or advice would be sufficient to promote and protect public confidence in the profession. In addition, this outcome would not restrict the social worker's practice, and the case examiners have already identified that the risk of repetition remains high. In relation to a warning, the case examiners had regard to paragraph 108 of the guidance, which reads:

A warning order is likely to be appropriate where (all of the following):

- The fitness to practise issues is isolated or limited
- There is a low risk of repetition
- The social worker has demonstrated insight

The case examiners have highlighted the wide-ranging concerns, which are not isolated. The case examiners have already identified that they consider the risk of repetition is high and that the social worker has not demonstrated any insight. The case examiners also considered that this was not an appropriate sanction, in the circumstances, to address the wider public interest concerns.

Conditions of practice order:

The case examiners next considered a conditions of practice order. The case examiners considered paragraph 114 of the guidance which states:

Conditions of practice may be appropriate in cases where (all of the following):

- the social worker has demonstrated insight
- the failure or deficiency in practice is capable of being remedied
- appropriate, proportionate, and workable conditions can be put in place
- decision makers are confident the social worker can and will comply with the conditions
- the social worker does not pose a risk of harm to the public by being in restricted practice

The case examiners were mindful that some of the alleged conduct took place outside of the social worker's employment, namely in respect of maintaining professional boundaries. Further, the case examiners noted that some of the alleged concerns related to attitudinal or character flaws such as dishonesty. The case examiners considered that it would be difficult to formulate conditions to monitor these actions. The case examiners noted their concerns about the social worker's lack of understanding around professional boundaries and dishonesty and consider that it would not be possible to address these through conditions. The case examiners noted the lack of insight and were not confident therefore that the social worker would be able to comply with conditions, particularly as the social worker is currently not working as a social worker. In conclusion, the case examiners consider the alleged conduct to be too wide ranging and serious to be addressed by way of a conditions of practice order.

Suspension order:

The case examiners went on to consider whether a suspension order might be an appropriate sanction.

The case examiners have considered the guidance, which states:

Suspension may be appropriate where (all of the following):

- the concerns represent a serious breach of the professional standards
- the social worker has demonstrated some insight
- there is evidence to suggest the social worker is willing and able to resolve or remediate their failings

The case examiners have therefore considered the guidance which states a suspension order may be appropriate where workable conditions cannot be formulated.

In this instance, the case examiners consider the concerns represent a serious breach of the professional standards. Since the alleged conduct has been raised with the social worker, they have not demonstrated any remorse or insight into how their conduct may be viewed; neither have they considered the impact of their actions upon the children and young people that they had been working with. The social worker has not indicated any willingness to remediate or address the shortfalls in their practice.

The case examiners note that it is almost two years since the alleged conduct took place, and at no time has the social worker demonstrated any insight. The case examiners note that the social worker has been out of the profession for this entire period and that an interim suspension order has been in place for some of this period. As the social worker has not indicated any wish to return to social work, or any willingness to remediate their actions, the case examiners do not consider a suspension order to be appropriate.

Removal order:

The case examiners therefore went on to consider a removal order. The case examiners have found that the concerns in relation to the social worker were wide-ranging and involved numerous children. They spanned core tasks within social work, such as record keeping through to attitudinal issues of dishonesty and abuse of trust, which are fundamentally incompatible with the role of a social worker. The case examiners considered that the conduct spanned a prolonged period, at a point that the social worker was experienced and therefore aware of the role and responsibilities of a social worker to act honestly and maintain professional relationships.

The case examiners did not consider that public confidence in the profession could be satisfied by any sanction less than a removal order. It is considered that a fair minded and reasonable member of the public would be shocked and troubled by the wide-reaching nature of the social worker's misconduct and as such, would expect the social worker to be removed from the register. The case examiners therefore consider that the only appropriate and proportionate sanction in this case is a removal order.

To conclude, the case examiners have decided to propose to the social worker a removal order. 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 28 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.

Response from the social worker

The social worker responded on 2 May 2023 and accepted the proposal in full.

Case examiners' response and final decision

The case examiners have again considered the public interest in this matter and, as they have not been presented with any new evidence that might change their previous assessment, they 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 removal order.

The case examiners note that there is an interim order currently in effect; this will be revoked on implementation of the removal order.