

Case Examiner Decision
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FTP-72327

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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 – removal order
Final outcome	Accepted Disposal – removal order
Date of the final decision	14 June 2023

Executive summary

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

- The factual concerns could be found proven by the adjudicators;
- Those concerns could amount to the statutory grounds of misconduct;
- 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 have notified the social worker of their intention to resolve the case with sanction of removal order; this was accepted by the social worker.

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.

Redactions will be applied to the published version of this decision, and in the copy shared with the complainant.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, Hertfordshire county council.
Date the complaint was received	30 May 2019
Complaint summary	The former employer raised concerns that the social worker failed to follow management instructions relating to an alleged conflict of interest between the social worker and a service provider commissioned by the council to provide care and support for adults with learning disabilities. The social worker, whilst in the role of Adult Disability Team of team manager, is alleged to have continued their involvement with service users and the manager of the provider contrary to management advice. The social worker resigned in November 2019, before the disciplinary process concluded.

Regulatory concerns

Whilst employed as a Social Worker for Hertfordshire County Council:

Regulatory Concern 1 - You failed to follow management instructions

Regulatory Concern 2 - You did not maintain a professional relationship with a service provider and/or people in need of care and support

By reason of regulatory concern 1 and regulatory concern 2, your fitness to practice is impaired by reason of misconduct and/or lack of competency 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	☐

Requests for further information or submissions, or any other preliminary issues that have arisen
The case examiners are aware of the need to consider cases expeditiously and the need to ensure fairness to all parties. In this case, bearing in mind the investigatory function and statutory duty, the case examiners initially adjourned their consideration of the case for the following reason: The case examiners note that the social worker had completed a voluntary removal form and states that they have no intention of returning to social work. The case was returned to the investigators to consider the voluntary removal application to conclude the fitness to practise proceedings (as per the voluntary removal guidance as amended 16 December 2022). The decision makers have reviewed this request, however, they determined that voluntary removal is not appropriate in this instance.

The realistic prospect test

Fitness to practise history

The case examiners have been informed of the following fitness to practise history:

- FTP-58602 on the 27/09/17 the SW was subject to a caution order for 12 months in recording and safeguarding. This relates to a mental capacity assessment and best interest decision completed by the social worker where they had neither visited nor spoken to the service user involved. Further, the social worker did not progress a safeguarding concern in a timely manner.

The case examiners consider that the above adverse findings are similar to these concerns in that the core issues relate to safeguarding. Therefore, the case examiners will consider this adverse history within their determination of the outcome.

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 those concerns could amount to the statutory ground misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst employed as a Social Worker for Hertfordshire County Council:

Regulatory Concern 1 - You failed to follow management instructions

The case examiners have carefully considered all the information presented to them, which includes the following:

- The council's internal investigation report provides evidence that during supervision with the deputy head of service on 24 October 2016, the social worker informs that the manager of the service provider [REDACTED] sponsors a mixed ability rugby team that they manage, and that their son works for this same organisation. The social worker agrees not have direct contact with the service provider to avoid a conflict of interests and signs documentation as, [sic] *'agreed with [social worker] that correspondence re commissioning of [REDACTED] to be passed down to [deputy manager.]'*
- The same issues are further discussed in supervision on 28 June 2018, where it was reiterated that the social worker does not work directly with the service provider or its service users.
- The social worker's line manager confirms that concerns around contact with the service provider and of the need to delegate commissioning and safeguarding tasks were further discussed in supervisions dated, 6 July 2018 and 06 August 2018; they record in the margin *'with immediate effect.'*
- Within the council's investigation report, 29 October 2019, the council later identified that the social worker had not complied with management instructions. The report identifies that the social worker had interactions with five service users who all received care from the service provider. Furthermore, the social worker was involved in numerous email correspondence, meetings and made decisions about a service user's care, without the authority of their manager. Other examples, include where the social worker attended at the service provider's offices jointly with another social worker to ascertain feedback about a service user; they also attended these offices alone for the purposes of obtaining information to submit to the legal team. The council suggests that the social worker had dealings and involvement with service users in receipt of care from the provider on around 17 instances, which they deemed was outside the social worker's remit as a team manager and against managerial direction.

In determining whether the social worker failed to do something, the case examiners have considered what was expected of them; the evidence strongly indicates that the social worker understood the instructions and reasons for these, and that they were aware of this responsibility in their role as team manager.

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

Regulatory Concern 2 - You did not maintain a professional relationship with a service provider and/or people in need of care and support

The case examiners note that the social worker initially declared a conflict of interest between themselves and the service provider in October 2016; this arose due to their

friendship with [REDACTED] outside of work and that [REDACTED] sponsored the rugby team which the social worker managed. Further, the social worker's son also worked for the organisation.

In relation to the social worker's professional relationship with five service users, the evidence is summarised as follows:

- Service user 1 - Within the investigation report, dated 29 October 2019, the social worker admitted to visiting service user 1 on various occasions outside working hours. This was not only against management advice but outside of their role as team manager. There is no evidence to suggest that the social worker informed service user 1's allocated worker or learning disability nurse of these visits. The social worker explains that they had known service user 1 for over 15 years having first worked with them as a social work student and that service user 1 had formed a close and trusting relationship with them.

An example discussed in supervision on 22 January 2019, is where the social worker responded to a request from the service provider to help with issues around self-neglect, which the social worker says [sic] *'rightly or wrongly I went'* seemingly to help shower the individual. They accept that they had supported service user 1 in various ways, and on a number of occasions as they were concerned about service user 1's lack of engagement and deteriorating health. However, the social worker claims this did not contravene the management agreements as it was *'only commissioning and/or safeguarding that I was not to be involved with as far as I understood it.'* The case examiners note, however, this is contradicted in an email dated 04 July 2018, where the social worker sent to other staff members regarding a request for additional calls for service user 1. The email states, *'I am giving approval for additional 1 hour morning call to support him in taking his medication.... Please confirm you are happy to accept this email in lieu of the Car 400 ... to be sent by the end of the week. Many thanks [social worker]'*. There is no evidence that the social worker copied their line manager into this email.

There are also several email threads between the social worker and [REDACTED] regarding concerns about the service user deteriorating health and the need to raise a safeguarding concern on the grounds of self-neglect. The social worker forwards this email to various health colleagues but appears to have taken the lead on the safeguarding and management oversight of the case.

- The social worker's line manager's witness testimony confirms that they were not aware of the extent of the friendship between service user 1 and the social worker and that the social worker did not disclose to them of their direct involvement. They state this was inappropriate for the social worker to manage the case, which the evidence supports.

- Service user 2 - On 6 July 2018, the social worker was involved in email correspondence from [REDACTED] about service user 2, and did not copy to their manager. The social worker replied to [REDACTED] within 10 minutes having liaised with another community service to deal with the query.
- Service user 3 - On or around 27 December 2018, the social worker was involved in email correspondence with [REDACTED] regarding a social care reassessment. The allocated social worker is not copied into the emails and thus were not aware of the request, or of a consideration for a placement.
- Service user 4 - On or around 18 January 2019, there is email correspondence between the social worker and [REDACTED] regarding a safeguarding issue, which the line managers are not made aware of.
- Service user 5 - Between 30 August 2018 and 23 January 2019, the social worker is involved in the commissioning of care for this service user. The social worker appears to lead on this case and does not allocate a social worker for case management.

Within their initial comments, the social worker denies this concern stating their contact with the service provider was always professional and service user centred. They deny any gain for them, [REDACTED] or the organisation.

Based on the evidence presented to them, the case examiners are of the view that the evidence is clear and cogent. The social worker appears to have taken the lead on case involvement with five service users, and evidence suggests that their line manager and allocated workers were not always informed or involved in some decision making regarding these individuals. Such direct involvement is alleged to have been outside the agreed remit as team manager and contrary to the management instructions. The case examiners consider that the social worker had failed to maintain a professional relationship with both the service provider and the service users in need of care and support.

Accordingly, the case examiners are therefore satisfied that 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 and 2, 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.

Lack of competence and/or capability

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.

The case examiners are satisfied that they have been provided with a fair sample of the social worker's work; they note that the alleged conduct spans over a period of one year between 2018/2019.

The case examiners also consider that if a social worker lacks the fundamental knowledge and skills to complete their duties, this is more likely to point towards a lack of competence or capability. In this case, whilst it is suggested that the social worker's performance fell short of what was expected, there is no suggestion that the social worker did not have the knowledge or skills to complete the tasks assigned to them.

The case examiners note that social worker had over 30 years' experience as a social worker and team manager, and would have had a good understanding where their professional responsibilities lay, both in terms of understanding and declaring conflicts of interests and maintaining professional relationships as aligned with the social worker professional standards. Indeed, the social worker made the initial disclosure about the potential conflict of interests in October 2016. There is evidence that the social worker understood what was expected of them as documented within supervision notes and in emails to the team when the social worker advised them to liaise with the deputy team manager regarding matters relating to the service provider, '...[sic] the decision has been made that any case activity or safeguarding requiring manager oversight relating to [REDACTED] upported living or outreach services this needs to be dealt with by [REDACTED] or [REDACTED] .

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.

Accordingly, the case examiners are not satisfied there is a realistic prospect of adjudicators finding that the regulatory concerns 1 and 2 would amount to an allegation of impaired fitness to practise by reason of ‘lack of competence or capability’

Misconduct

It is important to set out what misconduct is.

Misconduct can be broken down into two elements:

1. Misconduct which takes place in the exercise of professional practice.
2. 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 in exercise of professional practice, 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 HCPC professional standards (2016) that were applicable at the time of the concerns:

1.7 You must keep your relationships with service users and carers professional.

9.1 You must make sure that your conduct justifies the public’s trust and confidence in you and your profession.

9.4 You must declare issues that might create conflict of interest and make sure that they do not influence your judgement.

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 failing to follow managerial instruction, and not maintaining professional boundaries over a significant period of time, adjudicators are likely to view this extremely seriously.

The social worker partially accepts that they had contact with the service provider and that they were involved with cases of vulnerable adults in receipt of care from the organisation. In doing so, they accept that they failed to follow management instructions in relating to their involvement with the organisation.

The case examiners take the view that the social worker, as an experienced manager of an adult disability multidisciplinary team (MDT), should be able to reflect upon how their friendship with [REDACTED] as the proprietor of the care service with which they had initially helped set up, and the trusting relationships formed with service users, may result in bias and impact upon impartial decision making.

The case examiners note staff within the MDT team were reported to have felt their work with the service provider, and its service users, was undermined and hindered because of the social worker's alleged over involvement with the provision of care and support to a number of service users. The case examiners note, however, that no evidence has been provided to support this allegation, however, they consider that the perception itself could be deemed a barrier. Moreover, the social worker's actions are alleged by colleagues to have been perceived as disproportionately more favourable to the organisation.

The social worker's conduct not only kept their line manager uninformed but they appeared to have kept key professionals out of the loop by not copying them into emails, and making decisions without their knowledge. This had the real potential to cause harm, although the case examiners note there is no evidence to suggest this was the case.

In respect of not maintaining professional boundaries, notably, there is an inherent power imbalance with the commissioned service provider and the vulnerable adults who may feel conflicted between the relationship with the social worker and their allocated workers who felt hindered in the effectively performing their roles.

The alleged conduct also exposes a social worker to speculation regarding their potential motivations for example, visiting a service user out of office hours, and taking them to hospital and also providing personal care rather than delegating this support to others as would be expected. It is noted that there is no evidence that any service users were harmed but highlights the wider potential harm that can be caused by a social worker failing to maintain professional boundaries with the service provider and individuals using that service, and the adverse impact on trust and confidence in them.

The social worker's alleged actions would not align with HCPC standards of conduct as stated above. Nor would the align with the current regulator's professional standards, as follows:

As a social worker, I will:

1.7 Recognise and use responsibly, the power and authority I have when working with people, ensuring that my interventions are always necessary, the least intrusive, proportionate, and in people's best interests.

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

2.7 Consider where conflicts of interest may arise, declare conflicts as early as possible and agree a course of action.

3.7 Recognise where there may be bias in decision making and address issues that arise from ethical dilemmas, conflicting information, or differing professional decisions.

After careful consideration of the evidence, the case examiners are satisfied there is a realistic prospect of adjudicators determining that the departure from the professional standards was sufficiently serious to amount to misconduct.

If the matters were to be found proven, the case examiners conclude the alleged conduct is serious and is likely to suggest a departure from the professional standards detailed above.

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

Impairment

Having concluded there is a realistic prospect of adjudicators establishing the statutory ground of 'misconduct', the case examiners must 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 current impairment, the case examiners have considered whether the conduct is remediable, whether the social worker has demonstrated insight and/or undergone remediation, and whether there is a likelihood the matters alleged will be repeated.

The case examiners note that there is inconsistency in the social worker's full acceptance of facts, although they do accept the core facts. During the disciplinary investigation, and within submissions, dated 26 July 2022, the social worker partially admits to the concerns but has provided detailed mitigations and challenges the accuracy as to why they did not follow managerial instruction. Further, they do not feel there is anything to answer for in respect of regulatory concern 2, [sic] '*especially when the whole history and picture is seen accurately.*' However, within the voluntary removal request the social worker fully admits the concerns stating that they had no energy to argue their point any further; this causes the case examiners to question the social worker's true level of insight. Further, the case examiners note that the social worker comments that '*I still to this day struggle to see that*

this was a reasonable request as there was no evidence of conflict of interest, preferable treatment or gain to the provider or myself. However, the service users received an excellent service.'

In respect of regulatory concern 2, the social worker mitigates that all their involvement, actions and decisions were made in the best interests of the service users. The social worker is critical of the former employee's directions which they consider to be inconsistent and appeared to change to suit the needs of the service, or dependent upon whether the social worker was undertaking case management or managerial responsibilities. The case examiners consider that no matter what role the social worker was in at the time, as a registered professional they are required to uphold the professional standards; the social worker has failed to reflect upon this within their submissions.

The social worker implies that they have remediated by resigning from their employment during the disciplinary proceedings, however, resignation is not considered to be evidence of remediation. The social worker has not demonstrated what the case examiners consider to be true reflections or remorse for their actions. Neither, have they addressed the concerns relating to conflict of interests, as they do not believe there was any conflict.

The case examiners are of the view that, at times, the social worker's submissions seek to defend their actions, and does not consider the potential impact of their actions upon individuals with whom they were working. Indeed, the case examiners are of the opinion that the social worker feels justified in taking the actions they did and that they have sought to cite personality differences to explain close managerial scrutiny whilst practising. The social worker has not been able to provide any witnesses or written evidence in support due to time lapsed and not practising a social worker since leaving the council.

The case examiners have been made aware that the social worker has an adverse fitness to practise history where in 27 September 2017, they were subject to a caution order for 12 months in relation to the falsification of a mental capacity assessment record and failing to progress a safeguarding concern in a timely manner. The social worker was initially dismissed from employment due to gross misconduct, but they were reinstated following a successful appeal and given a 12-month written final warning.

The case examiners have considered whether the social worker's fitness to practise is remains impaired. They note that the social worker has completed a voluntary removal request form stating that they have no intention to return to social work practice and have secured employment in a non-social care role. The social worker submits that they continue to coach the mixed ability rugby team and has social contact with some service users.

The case examiners consider that the social worker has demonstrated no insight into the power imbalance between themselves, the service provider and the service users. The social worker appears ambivalent in their acceptance of the concerns. Further, they do not appear to grasp the gravity of the concerns, and the adverse impact this may have had. The social worker has not expressed any regret for their actions or sufficiently indicated how they may approach things differently in the future. The case examiners note the social worker has not worked within social care since they resigned from their employment. Neither, have they provided any evidence of remediation other than them stating that resigning from their social work role is a form of remediation.

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

Public interest

The case examiners must now consider the public interest in this matter.

The case examiners have 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.

A social worker failing to follow managerial directions and failing to maintain professional boundaries with an external service provider and vulnerable individuals potentially exposing service users to risk of harm, undoubtedly has the potential to undermine public confidence.

Social workers are expected to behave in a manner that adheres to the professional standards of conduct, which includes effectively communicating and keeping relationships with service users and stakeholders within professional boundaries. The alleged conduct in this case suggests a significant departure from professional standards. In addition, there must be consideration given to potential risk to the public. The social worker's alleged actions if proven, could have caused harm to others. The case examiners have also determined that in the absence of any evidence as to remediation or insight and the serious abuse of trust and breach of professional boundaries, members of the public would be concerned if the social worker was not found impaired on the public component as well.

The case examiners are of the view that it is likely the public would expect that a finding of current impairment is made by adjudicators to maintain public confidence in regulation of the profession.

The case examiners have concluded there is a realistic prospect that adjudicators would find the social worker to be currently impaired in the public interest.

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 accepts the core facts.
- 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 fair and just 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	☐
	Removal order	☒

Reasoning

Having found that the social worker's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The case examiners have taken into account the Sanctions Guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction.

The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator and upholding proper standards of conduct and behaviour.

The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity.

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

Mitigating

- The social worker has accepted the core facts, they initially declared a potential conflict of interests to their employer and have not sought to hide their alleged conduct, albeit they do not appear to understand the adverse impact of it.

- The social worker resigned from their position on 29 November 2019 and has not worked in a professional role since then.
- The social worker has completed a voluntary removal request form and stated they have no intention of practising again. They are in receipt of their workplace pension and currently work in a factory.
- The evidence suggests that the social worker considered that they were acting in the service users' best interests and that the support provided was deemed beneficial to the individuals concerned.

Aggravating

- The social worker has shown little insight into the alleged conduct and even with the passage of time, there appears to have been little reflection on their alleged actions. The social worker maintains that there was no conflict of interests and that their decision making remained impartial and objective despite their personal relationships with the service provider outside of work. Further, in the case of service user 1, the social worker undertook intimate personal care interventions without the appropriate training or authority.
- There has been no remediation undertaken.
- At the time of the alleged conduct, the social worker was a very experienced practitioner of over 30 years front line practise. The evidence indicates that they were aware of their professional responsibilities, particularly in declaring the potential conflict of interest.

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

No Action

The case examiners conclude that in view of the nature and seriousness of the social worker's misconduct which led to a finding of impairment, which has not been remediated and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

The case examiners have then considered whether to issue advice or a warning. They note that neither of these sanctions would restrict the social worker's ability to practise and, therefore, it is not appropriate where there is a current risk to public safety.

In any event, the deficits in the social worker's practice had the potential to have wide-ranging adverse consequences and therefore some restriction on their practice is required. Therefore, the case examiners have concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

The case examiners similarly do not consider that issuing advice would be sufficient to promote and protect public confidence in the profession, which would not restrict the social worker's practice; 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 serious concerns, which occurred over a prolonged period, and have already identified that there remains a risk of repetition, and that the social worker has not demonstrated insight. In the circumstances, the case examiners also consider that issuing a warning is not an appropriate sanction to address the wider public interest concerns.

Conditions of Practice Order

The case examiners next considered a conditions of practice order. The case examiners have consulted 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 are mindful that some of the alleged conduct took place outside of the social worker's employment, namely in respect of maintaining professional boundaries.

The case examiners consider that it would be difficult to formulate conditions to monitor these actions. Further, they note that in view of the social worker's lack of understanding around professional boundaries, they consider that it would not be possible to address these through conditions. The case examiners also noted the lack of insight and are not confident therefore that the social worker would be able to comply with conditions, particularly as the social worker is currently not practising in a social work role and has no intention of returning to the profession. 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.

The case examiners take the view that the social worker's misconduct is not about their skill or performance as a social worker and there are no identifiable areas of his practice which might benefit from re-training. The matters subject of the concerns are serious breaches of professional boundaries and the social worker has not provided evidence of sufficient remediation or insight within the documentary evidence. The case examiners determine that they cannot formulate conditions that would adequately address the risk posed by the social worker that would protect service users, colleagues, and members of the public

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 potential impact of their actions upon vulnerable adults 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 around five years that the alleged conduct took place, and at no time has the social worker demonstrated sufficient insight. The case examiners

are aware that the social worker has been out of the profession since November 2019, **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 have therefore considered a removal order. The case examiners note that the concerns span core tasks within social work, such as safeguarding, failing to follow managerial instructions and maintaining professional boundaries, which are fundamentally incompatible with the role of a social worker. The case examiners understand that the conduct spanned a prolonged period, that the social worker was experienced and in a managerial role, and therefore aware of their professional responsibilities to act honestly and maintain professional relationships. Further, the case examiners have considered a previous adverse history relating to falsification of records and safeguarding concerns.

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 disturbed by the serious 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 07 June 2023 confirming that they accept the disposal in full.

Case examiners' response and final decision

In light of the social worker's acceptance of the proposal, 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 removal order 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 removal order is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.