

Case Examiner Decision
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FTPS-23006

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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

If the case examiners find a realistic prospect of impairment, they consider whether there is a public interest in referring the case to a hearing. If there is no public interest in a hearing, the case examiners can propose an outcome to the social worker. We call this accepted disposal and a case can only be resolved in this way if the social worker agrees with the case examiners' proposal.

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	18 November 2024
	Accepted disposal proposed - warning order (12 month's duration)
Final outcome	26 November 2024
	Accepted disposal - warning order (12 month's duration)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of a conviction or caution in the United Kingdom of a criminal offence.
3. For regulatory concern 1, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and determined that the case could be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker was notified of their intention to resolve the case with a warning order of 12 month's duration. The social worker accepted this proposal and the terms in full.

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

The complaint and our regulatory concerns

The initial complaint

The complainant	The concern was raised by way of a self-referral by the social worker.
Date the complaint was received	14 December 2023
Complaint summary	The concern relates to the social worker having been convicted for driving a motor vehicle in a public place, while over the prescribed limit for alcohol.

Regulatory concerns

As amended by the case examiners:

Whilst registered as a social worker on 10th December 2023 you were convicted of:

1. Driving a motor vehicle when above the prescribed alcohol limit.

Grounds of impairment:

The matter outlined in regulatory concern (1) amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence.

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

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

In order to accurately reflect the wording of the statutory grounds in this case, the case examiners have amended the regulatory concern from:

The matter outlined in regulatory concern (1) amount to the statutory grounds of criminal conviction or caution in the UK.

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

to:

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

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

The case examiners are satisfied that the amendments they have made are minor, and they therefore considered it to be unnecessary and disproportionate to delay consideration of the case further by seeking additional submissions from the social worker.

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



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

Reasoning

Facts

Whilst registered as a social worker on 10th December 2023 you were convicted of:

1. Driving a motor vehicle when above the prescribed alcohol limit.

The case examiners have had sight of a certificate of conviction from the relevant court, which confirms that at a hearing on 19 January 2023, the social worker pleaded guilty and received a conviction for driving a motor vehicle on a road, namely the M6/A14, when the proportion of alcohol in their breath, i.e., 52 microgrammes in 100 millilitres of breath, exceeded the prescribed limit. The date of the offence was recorded as 10 December 2023. The social worker received a driving disqualification of 14 months (to be reduced by 14 weeks on the satisfactory completing of an approved driving course), a fine and costs.

The case examiners have also had sight of a police report, which confirms that police officers were travelling on the M6, when they observed the social worker's vehicle to

be “*swerving in the lanes*”. The report states that the officers “*attempted to stop the vehicle, believing that the driver may be in drink. The vehicle has not stopped when requested and assistance from tactical units in the area (was required)*”. Further officers assisted by getting behind the social worker’s vehicle on the A14, where the vehicle subsequently complied with a request to stop.

The police report further states that the police noted the social worker to be smelling strongly of alcohol, and attempted to conduct a breathalyser test; however, the social worker failed to provide sufficient breath for analysis, and were subsequently arrested for failing to provide a specimen of breath at the roadside. The social worker was transported into police custody where they provided an evidential breath sample of 52 micrograms per 100 millilitres of breath.

The case examiners note that the social worker admits the regulatory concern.

In light of the above, the case examiners consider there to be a realistic prospect of adjudicators finding regulatory concern 1 proven.

Grounds

The case examiners have noted the certificate of conviction, which confirms that the social worker received the conviction as outlined in the facts for concern 1.

The case examiners are satisfied that there is a realistic prospect that adjudicators would find the grounds of a conviction or caution in the United Kingdom for a criminal offence proven.

Impairment

Assessment of impairment consists of two elements:

1. The personal element, established via an assessment of the risk of repetition.
2. The public element, established through consideration of whether a finding of impairment might be required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers.

Personal element

With regards to the concerns before the regulator, the case examiners have given thought to their guidance, and they note that they should give consideration to whether the matters before the regulator are easily remediable, and whether the social worker has demonstrated insight and/or conducted remediation to the effect that the risk of repetition is highly unlikely.

Whether the conduct can be easily remedied

The case examiners consider that the conduct before the regulator, while serious, can be remedied. In their view, the alleged conduct is not fundamentally incompatible with continued registration, and the case examiners consider that the social worker could remediate by demonstrating insight and reflection into the circumstances and seriousness of their criminal offence, and providing evidence of remediation.

Insight and remediation

The case examiners do consider that they have been presented with positive evidence of insight and remediation, although they do not consider it to be complete.

In their submissions, the social worker admits the concern, accepts “*full responsibility*”, and expresses regret. They also acknowledge that their actions “*of driving a vehicle above the alcohol limit brings the profession into disrepute*”, and accept that their fitness to practise is currently impaired.

The social worker advises that they have attended a drink driving awareness course, and outlines learning from this course, and a certificate of completion has been provided.

The case examiners guidance reminds that for insight to be considered complete, a social worker needs to demonstrate that they fully understand what they have done wrong, and why it is wrong. While the social worker has indicated that they do not seek to justify their actions, and how it brings the profession into disrepute, the case examiners do not consider that full insight has been demonstrated. The social worker does not clearly articulate why they acted as they did, or address the significant risk of harm they posed to both members of the public and to police officers in driving over the limit and swerving on a motorway and A road, and initially failing to stop for the police. Their actions required further police officers to intervene, who were fortunately able to manage a safe stop.

The social worker has, however, provided a number of positive references and testimonies, including an employer’s reference. The case examiners have afforded these documents weight, as they indicate that the authors are clearly aware of the social worker’s conviction. The employer reference advises that they have no professional fitness to practise concerns about the social worker, and have not restricted their practise following their conviction. Two testimonies, written for the court’s consideration, indicate that the social worker’s actions in driving after

consuming excess alcohol are considered to be out of character by those who knew them.

While the case examiners do not consider the social worker's insight and remediation to be complete, they are nonetheless of the view that the social worker has demonstrated positive insight and remediation. In particular, they note that the social worker, in their submissions, takes full responsibility for their actions.

Risk of repetition

Having carefully considered the evidence of insight and remediation, the case examiners are satisfied that the risk of repetition is low.

Public element

The case examiners have 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.

In assessing the public interest, the case examiners consider that there are a number of aggravating factors in the specific circumstances of this case. These include that:

- The social worker was significantly over the prescribed limit for alcohol in their breath;
- The social worker drove their vehicle on a motorway and major road, where other vehicles would be likely to be travelling at high speeds, and as such the consequences of any accident and thus risk to public safety would be particularly high;
- The social worker initially failed to stop when requested to do so by police, placing officers at risk, and impacting adversely on further police resources;
- The social worker's insight and remediation is not complete.

The case examiners have next identified the following mitigating factors:

- The evidence suggests that this was the social worker's first offence;
- The social worker has demonstrated remorse and some positive insight into their behaviour;
- The social worker has undertaken, and demonstrated learning and reflection, from attending a drink awareness course;

- There is evidence to suggest that the social worker is of otherwise good character.

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

The case examiners are of the view that a fully informed member of the public would be concerned that a social worker had received a conviction for driving while significantly over the prescribed limit for alcohol, including on major roads, and failed to stop for the police when first requested to do so. If the concerns were to be found proven by adjudicators, the case examiners are of the view that a member of the public would consider the alleged conduct of the social worker to be serious, and would expect a finding of impairment to be made, together with an appropriate sanction.

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

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	☒
Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

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

- There is no conflict in the evidence in this case and the social worker accepts the key facts, including that they are currently impaired.
- The case examiners are of the view that that the risk of repetition is low, and any future risk 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.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	12 months	

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 a sanction is not to punish the social worker but to protect the public and the wider public interest. In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness. The case examiners commenced by considering whether it may be appropriate to reach a finding of impairment, with no requirement for any further action (a no further action outcome). The case examiners were satisfied that in this case, given the aggravating factors and seriousness of the concern raised, a finding of no further action would be insufficient to protect public confidence. The case examiners have next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners consider that whilst they could offer advice to prevent this situation arising again, this would also not be sufficient to mark the seriousness with which they viewed the social worker's conduct and conviction. The case examiners went on to consider a warning order, which would provide a clearer expression of disapproval of the social worker's conduct than an advice order. The case examiners conclude that a warning order is the most appropriate and

proportionate outcome in this case, and represents the minimum sanction necessary to adequately address the public's confidence in the profession. The case examiners also considered that a warning order would sufficiently mark the seriousness with which the case examiners view the social worker's conduct, and would appropriately safeguard public confidence in the social work profession, and in the regulator's maintenance of professional standards for social workers.

In reaching this conclusion, the case examiners took into account that they had found a low risk of repetition, and that the social worker had shown some positive insight and remediation, including attending a drink-driving offenders' course and reflecting on what they learned there. The social worker's alleged conviction was also not directly linked to their practice, occurring outside of work. As such, meaningful and workable conditions may be difficult to formulate. The case examiners also consider that higher sanctions, i.e., a conditions of practice order or a suspension order, would be disproportionate in the circumstances of this case, which did not fall only marginally short of requiring removal from practise.

The case examiners therefore moved on to consider the length of the warning order, with reference to the regulator's sanctions guidance. Warning orders can be imposed for one, three or five years. The case examiners are satisfied that in this case a 12 month warning order would be sufficient to mark the seriousness of the conduct in question. In reaching this conclusion, the case examiners referred to the sanctions guidance, and noted that the guidance states that 12 months may be appropriate for an isolated incident of relatively low seriousness. In these cases, the primary objective of the warning is to highlight the professional standards expected of social workers. The case examiners were of the view that, although they do not consider this case to be one of 'low seriousness', in light of positive evidence of developing insight and remediation, and the low risk of repetition that they had identified, a 12 month warning is sufficient to protect the public, and to safeguard public confidence.

To test this position, the case examiners considered the guidance in respect of a three-year order, which may be appropriate for more serious concerns, or a five-year order, for where a case has fallen only marginally short of requiring restriction of practice. The case examiners gave consideration to a longer order, but are of the view that, with the primary reason for finding impairment in this case being the public interest, a 12-month order was sufficient to protect the public, and to safeguard public confidence; as such a longer order would be disproportionate. The case examiners are also not of the view that this is a case that has fallen only marginally short of requiring restriction to practice.

The case examiners have therefore decided to propose to the social worker a warning order of 12 month's duration. They will now notify the social worker of their intention

and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 14 days to respond. If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Content of the warning

The case examiners formally warn the social worker as follows:

Your conduct in this case represented a significant breach of professional standards and had the potential to place members of the public and the police at risk of serious harm, as well as having an adverse impact on public confidence in you as a social worker and the social work profession.

The case examiners warn that as a social worker, it is of paramount importance that you conduct yourself appropriately and in line with the law and your professional standards, in both your personal and professional life. The case examiners remind the social worker of the following Social Work England professional standard (2019):

As a social worker:

5.2 I will not 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 conduct that led to this complaint should not be repeated. Any similar conduct or matters brought to the attention of the regulator are likely to result in a more serious outcome.

Response from the social worker

On 24 November 2024 the social worker accepted the proposed disposal, confirming that they had:

- read the case examiners' decision and the accepted disposal guide;
- admitted the key facts set out in the case examiner decision, and that their fitness to practise is impaired;

- understood the terms of the proposed disposal of their fitness to practise case and accepted them in full.

Case examiners' response and final decision

The case examiners concluded that the social worker's fitness to practise was likely to be found impaired, but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning with a duration of 12 months and the social worker accepted this proposal.

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

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, they remain of the view that an accepted disposal by way of a warning order of 12 months is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.