

Case Examiner Decision

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FTPS-21308

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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	15 July 2024
	Accepted disposal proposed – removal order
Final outcome	22 July 2024
	Accepted disposal – removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concerns 1 and 2 being found to amount to the statutory grounds of a conviction or caution in the United Kingdom for a criminal offence and misconduct.
3. For regulatory concerns 1 and 2, 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 removal order, which the social worker subsequently accepted. Having revised the public interest in the case, the case examiners determined that an accepted disposal -removal order was the most appropriate outcome in this case.

The case examiners 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.

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in blue will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in red will be redacted from both the complainant's and the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer.
Date the complaint was received	25 October 2022
Complaint summary	A concern was initially raised in relation to the social worker having been charged and placed on remand for a serious criminal offence. The social worker was subsequently convicted for the offence of causing grievous bodily harm with intent and possession of a knife blade/sharp pointed article in a public place contrary to the Criminal Justice Act 1988. A further concern was raised by Social Work England, alleging that the social worker had failed to inform Social Work England of their arrest and subsequent police investigation.

Regulatory concerns

Whilst registered as a social worker:

1. On 17 October 2023 at Isleworth Crown Court, you were convicted of grievous bodily harm with intent and possession of a knife blade/sharp pointed article in a public place contrary to the Criminal Justice Act 1988.
2. You did not inform Social Work England that you were arrested and/or subject to a police investigation on or around 11 September 2022.

The matters outlined in the regulatory concern 1 amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

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

The matters outlined in the regulatory concern 2 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Preliminary issues

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

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



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

Reasoning

Facts

Whilst registered as a social worker:

1. On 17 October 2023 at Isleworth Crown Court, you were convicted of grievous bodily harm with intent and possession of a knife blade/sharp pointed article in a public place contrary to the Criminal Justice Act 1988.

The case examiners have had sight of a copy of a crown court certificate of conviction, confirming that the social worker was convicted on 17 October 2023 of the offence as outlined in the regulatory concern. The certificate also states that on 5 January 2024 the social worker was sentenced to 6 years imprisonment following their conviction.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the facts of concern 1 proven.

2. You did not inform Social Work England that you were arrested and/or subject to a police investigation on or around 11 September 2022.

The case examiners have noted information from the social worker confirming that they were initially arrested by the police on 11 September 2022, charged with attempted murder, and then remanded in custody on 13 September 2022. During the following weeks the Crown Prosecution Service added charges of grievous bodily harm with intent and possession of a knife blade/sharp pointed article in a public place, and the social worker was not released on bail until 9 November 2022. The social worker advised that being remanded in custody was the reason why they “unable to inform social work England at an earlier date.”

A referral does not appear to have been made to regulator regarding the social worker being charged ‘with a serious criminal offence’ until 25 October 2022; this referral was made by the social worker’s previous employer.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the facts of concern 2 proven.

Grounds

The case examiners have been presented with the statutory grounds of conviction or caution in the United Kingdom for a criminal offence in relation to concern 1.

As noted above, the case examiners have had sight of a copy of a crown court certificate of their conviction on 17 October 2023. The case examiners are aware that such a certificate can be relied on as proof that these statutory grounds are engaged

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

In relation to concern 2, the case examiners have been presented with the statutory grounds of misconduct.

The case examiners are aware that misconduct is generally considered to consist of serious acts or omissions, which suggest a significant departure from what would be expected of the social worker in the circumstances. This can include conduct that takes place in the exercise of professional practice, and also conduct which occurs outside the exercise of professional practice, but calls into question the suitability of the person to work as a social worker.

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following Social Work England professional standard which was applicable at the time of the concerns:

6.6 I will declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal proceedings or a regulatory finding is made against me, anywhere in the world.

The case examiners have noted evidence indicating that the social worker was remanded in custody following their arrest and charge, which was initially for attempted murder. While the social worker may have had a limited opportunity to report the criminal proceedings directly to the regulator while incarcerated, the case examiners are of the view that the social worker could have ensured an appropriate declaration was made via a solicitor or other third party, particularly given the serious nature of the offences charged.

Social workers are required to inform their regulator if they are subject to criminal proceedings. This enables the regulator to consider at the earliest opportunity whether the given circumstances present any risk in relation to the protection of the public, or to public confidence in the profession, which might require restrictions on practice. Any delay or failure on the part of a social worker to report such matters has the potential to cause unnecessary delay in the ability of the regulator to consider such risks to achieve its overarching objectives, i.e., protecting the public, promoting and maintaining public confidence in social workers in England and promoting and maintaining proper professional standards and conduct.

In relation to this case, the case examiners note that once the regulator was informed of the criminal proceedings, they sought an interim order, and that this was granted with the social worker being subject to a suspension order on the basis that the charges were “very serious” and “*had the potential to seriously undermined public confidence in the profession*” (sic).

The case examiners are of the view that the social worker’s failure to ensure a timely declaration was made regarding their criminal proceedings, had the potential to delay the required risk assessment and subsequent organisational response to manage the risks identified, and as such represents a significant breach of the required standard.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the statutory grounds of misconduct 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

While the matters under consideration at concern 1 appear to be isolated and did not take place during the social worker's professional practice, the case examiners note that the criminal offence for which the social worker has been convicted relates to them having, with intent to cause grievous bodily harm, caused significant serious injury to a third party.

The information presented to the case examiners includes information indicating that the social worker had 'actively' sought out their victim while armed with a kitchen knife, and had repeatedly told the victim they 'were dead', prior to stabbing them at least twice in the chest. The injuries sustained by the victim were significant and required life-saving treatment, and appear to have also caused an adverse psychological impact on them. The social worker received a custodial sentence of six years following conviction, and were advised that they would serve up to two-thirds of the sentence in custody before being released into the community in licence and subject to supervision.

The case examiners do not consider, in light of the seriousness of the offence for which the social worker was convicted, the degree of harm caused to a member of the public, and the social worker currently being subject to a custodial sentence, that the conduct can be easily remedied. However, they are of the view that if the social worker was able to demonstrate sufficient remorse and clear insight into why they acted as they did,

[REDACTED]

[REDACTED] and provided evidence, for example [REDACTED] reports, that they were not

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██████████ and provided evidence, for example ██████████ reports, that they were not

at risk of responding in the same way in future, that the matters at concern 1 may be capable of remediation.

In relation to concern 2, the case examiners are of the view that this concern can be more easily remediated, for example by evidence for the social worker that they had reflected and understood why their actions fell short of the relevant professional standard and the risks that this presented, and provided an undertaking to ensure that there was no future repetition.

Insight and remediation

The case examiners note that the social worker indicated that they were pleading 'not guilty' to the charges considered by the courts, pursued a defence of self-defence, and presented mitigation for their actions, which was considered by the judge in their sentencing remarks. Submissions on mitigation included that the social worker was subject to significant provocation prior to taking the actions for which they were convicted; this included the social worker's knowledge of the victim's history and their belief that the victim had just injured [REDACTED] and expert evidence that this triggered [REDACTED] a state of dissociation at the time.

While the social worker has not provided submissions on remorse to their regulator, the case examiners note that the judge in their sentencing remarks found that the social worker had demonstrated *"remorse for this offending (that was) genuine and heartfelt and not based simply on the consequences for yourself"*. Reference is also made to the social worker having provided a letter to the court saying that they are *"appalled by (their) actions and genuinely sorry for the harm that (they) caused"*. A psychological report for the court dated 22 December 2023 also references the social worker wishing to apologise for her actions.

In submissions the social worker asks that comments made by the judge during the trial are taken into consideration, i.e. that their actions were *"wholly out of character, I was not considered dangerous and the impact my mental state had at that time."* They also indicate that they hope that they can return to social work in the future. The case examiners note that the social worker's former employer has provided wholly positive comments about the social worker's professional practice, and that the judge did find that:

"This is not a case where I consider you to be dangerous. As I have previously stated, there is no pattern of behaviour in your case. To the contrary, it appears to be wholly out of character and so I am satisfied that your risk can be managed through a lengthy determinate sentence, which this is, and licence conditions and supervision on release".

The case examiners note that the social worker's actions may have been isolated and that there was some provocation [REDACTED]

However, while this may assist in explaining why the social worker responded in such a violent way to the situation they were presented with, the case examiners have not been presented with evidence of remediation at this time that would reassure them that the social worker would not respond in the same way if presented with a similar set of circumstances in the future. The psychological report for the court provided an opinion on treatments that the social worker would benefit from for post traumatic stress disorder; the case examiners have not been presented with evidence that the social worker has yet undergone any such treatment.

The social worker has also not provided submissions to indicate that they understand how their conviction and failure to inform the regulator of the criminal proceedings may have impacted on public confidence in the profession and on the maintenance of professional standards.

Risk of repetition

In the absence of evidence that insight is complete or that the social worker has undertaken remediation, the case examiners consider a risk of repetition to remain, if the social worker were to find themselves in similar circumstances in the future.

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.

Having carefully considered all of the information presented to them, the case examiners are of the view that a fully informed and reasonable member of the public would be concerned by the violent nature of the assault for which the social worker was convicted, notwithstanding the mitigation presented. They consider that a finding of impairment and an appropriate sanction would be expected by the public to maintain public confidence in the profession and maintain professional standards.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the social worker 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 carefully 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 not disputed the facts.
- While the social worker has not indicated directly whether they accept that their conduct is impaired, and has indicated a desire to contribute to social work again one day', they have also stated that they are aware *"how this will impact my registration and my future in social work"*. The accepted disposal process will provide the social worker with the 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 also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, particularly in light of the fact the social worker has already been convicted in a criminal court. Furthermore, the publication of an accepted disposal decision will provide 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 suspension order is already in effect.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒
Proposed duration	Where a social worker is removed from the register, there is no defined end to the finding of impairment. A social worker that has been removed from the register may only apply to be restored to the register 5 years after the date the removal order took effect. The adjudicators will decide whether to restore a person to the register.	

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 considering a sanction, the case examiners have considered mitigating and aggravating factors in this case: Mitigating - The social worker has not disputed the relevant facts and has expressed remorse for their alleged conduct. - The social worker has no previous adverse fitness to practise history. Aggravating

- The social worker has not demonstrated full insight or remediation into the alleged conduct, and there remains some risk of repetition.

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, advice or warning:

With reference to the regulator's sanctions guidance (December 2022), the case examiners noted that in cases where a risk of repetition remains, the outcomes of no further action, advice or warning are unlikely to be appropriate as they will not restrict the social worker's practice. Whilst the guidance advises that these outcomes may be considered where there are mitigating factors, the case examiners are satisfied that in this case, which includes a conviction for an offence of causing grievous bodily harm with intent and possession of a knife blade/sharp pointed article in a public place, such outcomes remain inappropriate.

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 are of the view that the social worker has not demonstrated sufficient insight or remediation, they are unable to formulate workable conditions, given the social worker is in prison, and furthermore, consider that the public interest in this case requires a more serious sanction, so that public confidence could be maintained.

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 do not consider that, in the circumstances of this case, a suspension order is appropriate or would maintain public confidence. The concerns indicate that a member of the public was seriously harmed by the social worker's actions, which represent a serious breach of the professional standards expected of social workers. Further, the case examiners consider that the social worker has not shown sufficient insight or remediation at this time.

Removal order:

The case examiners therefore went on to consider whether a removal order may be the only outcome sufficient to protect the public, maintain confidence in the profession, and maintain proper professional standards for social workers in England. The case examiners consider that in light of the social worker's alleged actions, which include a criminal conviction for a violent offence, there is no other outcome available to them that would provide the level of assurance needed in respect of these three criteria. In the case examiners' view, considering all the circumstances of this case, a removal order is the only sanction available that will safeguard public confidence.

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

On 19 July 2024 the social worker confirmed by way of email and return of their completed accepted disposal response form, that they had read the case examiners' decision and the accepted disposal guide. They confirmed that they admitted the key facts set out in the case examiner decision, that their fitness to practise was impaired, and that they 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 have reviewed their decision, paying particular regard to the overarching objectives of Social Work England:

- The protection of the public
- Maintaining confidence in the social work profession
- The maintenance of professional standards.

They remain satisfied that an accepted disposal removal order is a fair and proportionate way to conclude this matter and is the minimum sanction required to protect the public and the wider public interest.

The case examiners note that there is an interim order currently in effect, which will be revoked upon enactment of the agreed order.