Case Examiner Decision

Catherine Emmins – SW110827

FTPS-21969

Contents

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	19 August 2024
	Accepted disposal proposed - warning order 1 year's duration
2nd Preliminary outcome	08 October 2024
	Accepted disposal proposed - warning order 1 year's duration
Final outcome	22 October 2024
	Accepted disposal warning order 1 year.

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in [redacted] will be redacted from both the complainant's and the published copy of the decision.

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1, 2 and 3 being found proven by the adjudicators.

2. There is a realistic prospect of regulatory concerns 1, 2 and 3 being found to amount to the statutory grounds of misconduct.

3. For regulatory concerns 1, 2 and 3 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 be notified of their intention to resolve the case with a warning order of one year's duration.

The social worker subsequently responded to the proposed disposal suggesting amendments. Having carefully considered the amendments proposed by the social worker, the case examiners were satisfied that their decision remained appropriate and that no amendments were required to their report and proposed accepted disposal.

As such, the case examiners requested that the social worker again be notified of their intention to resolve the case with a warning order of one year's duration.

On 21 October 2024, the social worker again responded to the proposed disposal. The social worker confirmed that they had read the accepted disposal guide, and that they understood, and accepted in full, the terms of the proposed disposal (a warning order of one year's duration) of their fitness to practice case.

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

The complaint and our regulatory concerns

The initial complaint	
The complainant	The complaint was raised by a member of the public
Date the complaint was received	21 February 2023
Complaint summary	The complainant (person A) alleged that the social worker had failed to complete an assessment of them, and had provided/recorded an inaccurate diagnosis of their health conditions to the police.

Regulatory concerns

Regulatory concerns are clearly identified issues that are a concern to the regulator. The regulatory concerns for this case are as follows:

Whilst registered as a social worker you:

1. Did not complete a liaison and diversion assessment required of you on 12 October 2022 in relation to Person A.
2. Diagnosed Person A with medical conditions which was not within your scope of practice.
3. Shared inaccurate medical information about Person A with other professionals.

The matters outlined in regulatory concern 1, 2 and/or 3 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, 2 and 3 being found proven, that those concerns could amount to the statutory grounds of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker you:

1. Did not complete a liaison and diversion assessment required of you on 12 October 2022 in relation to Person A.
2. Diagnosed Person A with medical conditions which was not within your scope of practice.
3. Shared inaccurate medical information about Person A with other professionals.

The case examiners have considered concerns 1, 2, and 3 together, as the evidence relied on relates to circumstances surrounding the same event. Having carefully considered all of the information presented to them, the case examiners have noted the following key evidence.

Information from person A (referral of 21 February 2023, email of 28 February 2023, and call note of 22 December 2023) advises that:

- The social worker should have conducted an assessment on person A in relation to their mental capability while in police custody but did not do so.
- Person A recalled the social worker "putting their head around the (cell) door and stating something along the lines of "*Hello, my name is… The police are going to interview you later on*." and then closed the door. Person A did not think that the social worker specified that they were a social worker.
- The social worker documented a diagnosis on their police custody record, without consulting with person A of their findings.
- That the recording the social worker made on the police system constituted a breach of their sensitive medical data.
- That it has been confirmed to them that the social worker was not a clinical practitioner, and as such were unable to make any medical diagnosis.
- That a consultant psychiatrist has subsequently determined that they do not suffer from the conditions recorded by the social worker.
- That the diagnosis made by the social worker has placed them under significant stress and anxiety.

Information from what appears to be a page (28 of 40) from a police custody record, with an entry by the social worker at 1316hrs, 12 October 2022, documenting that:

- The social worker had spoken with the detainee (person A), while in a police detention cell, and that a "*face to face L & D (Liaison and diversion) assessment*" was completed.
- The vulnerabilities/risks that are present as "*ADHD and Emerging Personality Disorder*."
- That due to "*risks of aggression*" and requiring a "*witness due to risk of complaints,*" person A was seen in the cell with a police sergeant present.
- That person A was informed that on their release, secondary mental health services were in place for them, and that these would be the most appropriate therapeutic interventions. Person A was also advised that there was "*limited ability of L&D to do further work in police custody*," and that person A objected to this information, stating that they had been advised otherwise by NHS England.

- On being informed by the social worker that L&D services were unable to support him further, and the social worker terminating the conversation, it is recorded that person A threw an object at the cell door as it closed.

- That "*it is L&D's opinion that due to repeated historic evidence the risk of escalation of distress for the (person A) are significant if he is engaged with in relation to his diagnosis. This can put him as risk of further arrests, risk of harm to himself due to aggressive behaviours and also to others as he carries these behaviours out.*"

- That person A's behaviours in custody have previously escalated to a point where they required "*support of 4:1 ratio in the cell to keep him safe*," and that this should "*be avoided at all possible by taking a boundaried and therapeutic approach to working with somebody with his diagnosis/history*."

A job description for the L&D practitioner role outlines key duties as including:

- The provision of initial assessments of suspects or offenders to identify present needs, and refer to other pathways dependent on presenting vulnerability;

- Working collaboratively with local services and agencies to conduct detailed assessments of appropriate referrals with a focus on offending behaviour, risk of harm to others and related issues and needs;

- Undertaking comprehensive assessments of client's individual needs and strengths to obtain and record all relevant information about their physical health, substance misuse, learning disability, mental health, the social and personal circumstances, and current needs and problems.

A letter from the NHS Foundation Trust to person A dated 9 January 2023, detailing that:

- There was an expectation for Criminal Justice Liaison and Diversion Team (CJL&D) practitioners to offer an assessment in a situation such as person A's.

- That, having reflected on their rationale at the time of their limited interaction with person A, the social worker had advised their team leader that it was an attempt to reduce person A's potential distress at that the time. The team leader however, had acknowledged that this was not the correct approach, and was "*a deviation from the expected practise*."

- The team leader had also advised that, in their capacity as a CJL&D practitioner, the social worker was not able to make a formal mental health diagnosis; they

should not have made comments on any mental health diagnosis which had not been formally diagnosed by an appropriate clinician.

A written summary of a call between Social Work England and the team leader from the Criminal Justice Liaison and Diversion Team (CJL&D), dated 24 January 2024, outlines that:

- The role of the CJL&D team is to support and signpost individuals who come into contact with the criminal justice system. The role was distinct from the Custody Healthcare Team who are healthcare professionals and who would determine whether an individual was fit to be interviewed by police.

- While the social worker could potentially contribute to an assessment, the decision in respect of whether an individual was fit to be interviewed would ultimately be the responsibility of the Custody Healthcare Team.

- That the social worker had advised the team leader in supervision of their view that if person A had been spoken to (while in custody), they would have been destabilised further in terms of self-harm, aggression and becoming upset, and that person A was displaying challenging presentation in a custody environment.

- In such a situation, the social worker would have been expected to try to engage with person A later to see if an assessment could be undertaken, particularly given person A was requesting one. Also, that any such assessment being offered to person A would relate to their support needs during and after custody.

- When the matter was discussed with the social worker in supervision, the social worker had advised that they felt that they were able to give a clinical impression, and that they had been able to record such comments in a previous role. The social worker's manager said that they were clear with the social worker that recording such information was not acceptable in their current role.

- When asked whether there had been any concerns regarding the social worker's practice in the intervening period of time, the team leader advised that they were not in a position to respond, as the social worker had been absent from work [redacted] for a considerable period of time, and had only recently returned to the team following temporary redeployment. The social worker was not, however, subject to any formal or informal performance management procedures.

A written summary of a call between Social Work England and a manager from the Criminal Justice Liaison and Diversion Team (CJL&D), dated 18 January 2024, outlines that:

- The manager did not consider that the social worker had dealt with the person A's request for an assessment as expected. The manager also advised that "*the misrecording of diagnoses can massively impact on the client journey"'* and that other people reading the record in future, including police officers, who would trust the records of another professional, would not realise that the information in the record was incorrect.

- The manager also advised that "*at that time the clinical decision not to intervene further might have been detrimental*," and that another attempt could have been made to undertake the assessment an hour later. The manager questioned whether their team was "in a position to deny access to a professional" and spoke about the duty they had to the individual versus providing a clinical opinion.

- As the social worker had only been back in the CJL&D team for a brief period, they felt unable to comment on their performance since the complaints arose. The manager advised, however, that the social worker was not subject to any performance management procedures.

A record of supervision between the social worker and their team leader on 3 November 2022, records that:

- There was a discussion and reflection with the social worker about "*medical records and accuracy/factual content with the addition of professional opinion but not a diagnostic approach,"* and how *"as professionals we hold opinions on working diagnosis and presentations, but our assessments need to reflect the assessment we have taken with the service user at the time. Referrals can then be made to support any diagnostic or treatment pathways we believe may assist*."

The social worker's submissions, dated 20 June 2024, include that:

- The social worker admits regulatory concern 1, in relation to not completing a L&D assessment. They state however, that the L&D team contribute to the police custody process and support people whist in custody, as "*guests in the custody suite … invited by the police*" and the (the police's) "*word is the final say and they often override our requests to see a client due to risk factors*.''

- With that in mind, and due to the police's knowledge of person A, the social worker states that the L&D team had been advised "*to air caution when with him*"; on occasion they had been advised not to visit person A at all while in police custody, although the social worker could not "*recall specifics*".

- On the occasion raised in the concerns, "*although (person A) was calm in the cell, police were weary (sic) of the risks he posed to staff and had discouraged L&D*

intervention as it could have heightened his anxiety and caused him to negatively react".

- The social worker decided to speak with person A in their cell as the "*kinder way to see someone*," rather than though a hatch in the cell door, and were escorted by the custody sergeant. Having introduced themselves, person A "*immediately raised his voice and aggressively requested an assessment, he was advised that I would not be doing so as he was being seen by a consultant the next day for a full assessment - at this time he was verbally aggressive towards me and threw his police Codes of Conduct book at me as the door closed. This contact validated the police's caution to see him and affirmed the risk he posed to us*."

- *"To conclude this first concern – it falls in to two parts: risk and benefit of intervention. Risks management was mitigated by a police decision which I could not override Benefit of intervention was a professional call based on the balance of the above and him seeing a consultant the next day*."

- In relation to concern 2, diagnosing Person A with medical conditions, the social worker does not admit the concern.

- The social worker states that they understand they are not a psychiatrist or clinical psychologist, and thus are unable formulate diagnoses. They further state that they are unsure what evidence person A has that they personally diagnosed them, aside from the notes made, as they "*did not see them, discuss it with him, or contribute to the next day assessment*." They submit that person A may feel that as "*I made some notes to reflect a diagnosis, … I was the person who formulated the diagnosis*."

- The social worker further explains that, in their role they "*see the client very briefly in a time of crisis, we are therefore tasked with looking at the presentation, history, witnessing their actions and reading notes to formulate the best pathway for treatment or process. This process will lead us to query symptoms of diagnosis (of which we are experienced in observing and trained in) and therefore the most appropriate plans can be formulated for the client*."

- The social worker admits concern 3, relating to having shared inaccurate medical information about Person A with other professionals. They state that they had a discussion with a colleague who was a mental health nurse, at the time of seeing Person A, and that it was their colleague who informed that Person A had specific diagnosis. They advise that "*I had used this information without checking it. It is as simple as that*."

Having considered all of the evidence presented to them, and the key points summarised above, the case examiners are of the view that the social worker's actions in relation to

the concerns appear to have been significantly influenced by the views presented to them by the police custody staff about historic risks presented by person A, and that the social worker may not have demonstrated an adequate degree of professional autonomy and curiosity, to ascertain for themselves whether an assessment was possible.

The case examiners are of the view that, while the social worker needed to be cognisant of police warnings about the presentation of Person A, and any potential for aggression, there was still an opportunity for the social worker to approach the requested assessment with an open mind, and to ascertain through a more open communication style whether an assessment was possible at that time, or if not, at a later point.

Further, the evidence indicates that the social worker recorded what appeared on the custody record as a medical diagnosis that was incorrect, and that doing so was outside of their professional scope of practice. While the social worker asserts that they recorded incorrect information provided to them by a colleague, the records do not indicate this. If the social worker had consulted with another party, then a more accurate recording should have been made to reflect the source of information the social worker was relying upon.

The case examiners have thus concluded that there is a realistic prospect of adjudicators finding concerns 1, 2 and 3 proven in relation to the facts.

Grounds

The case examiners are aware that misconduct would generally be 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 standards (Social Work England Professional Standards), which were applicable at the time of the concerns.

As a social worker, I will:

1.2 Respect and promote the human rights, views, wishes and feelings of the people I work with, balancing rights and risks and enabling access to advice, advocacy, support and services;

1.3 Work in partnership with people to promote their well-being and achieve best outcomes, recognising them as experts in their own lives;

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;

2.4 Practise in ways that demonstrate empathy, perseverance, authority, professional confidence and capability, working with people to enable full participation in discussions and decision making.

3.1 Work within legal and ethical frameworks, using my professional authority and judgement appropriately;

3.3 Apply my knowledge and skills to address the social care needs of individuals and their families commonly arising from physical and mental ill health, disability, substance misuse, abuse or neglect, to enhance quality of life and wellbeing;

3.5 Hold different explanations in mind and use evidence to inform my decisions;

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

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

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

3.13 Provide, or support people to access advice and services tailored to meet their needs, based on evidence, negotiating and challenging other professionals and organisations, as required.

The case examiners consider that the evidence outlined and considered by them in relation to the facts, suggests a significant breach of a number of the professional standards required of social workers. These are outlined above and further explained in Social Work England's guidance on the professional standards.

For example, to practise safely, it is essential for all social workers to know and comply with legal frameworks relevant to their work and obligations to protect and promote people's rights. The case examiners consider that the social worker's actions in relation to concern 3 indicate a potential failure to comply with general data protection regulations (GDPR), including the principles of lawfulness, fairness and transparency, and of accuracy. If found proven, this would amount to a breach of standard 3.1. Providing inaccurate information on a custody record about person A also does not appear to have been proportionate and in the complaint's best interests, a potential breach of standard 1.7

Social workers can also act as advocates on behalf of people to support them to say what they wish and/or to access services. This can be an invaluable role, supporting people to make their voice heard, to exercise their rights and to gain access to the information, services or resources they need. In failing to conduct an L&D assessment, as alleged at concern 1, the social worker potentially breached standards 1.2, 1.3, 2.4, and 3.13.

Using an evidence-informed approach to make impartial decisions is considered an integral part of social work practice. and assists them to address complex situations. Social workers are required to listen to people, without bias or prejudice, and use evidence to apply their professional judgment. Decisions should be discussed to challenge thinking and test assumptions. The evidence has indicated that the social worker may potentially have given too much weight to the information provided to them by other colleagues (police and a mental health colleague), resulting in them taking an unbalanced approach towards person A, with regards to whether or not they could engage safely in an assessment at that time, or later, and what medical conditions they were presenting with. If subsequently found proven, this could amount to a breach of standards 3.3, 3.5, 3.6 and 3.7.

In addition, maintaining accurate, clear, and objective records of work completed is an essential part of social work. Documenting decisions and actions provides a clear record of work with people. In placing inaccurate information in the complainant's custody record, the social worker potentially breached professional standard 3.11.

The case examiners consider that the evidence indicates significant breaches of a number of professional standards by the social worker. **They 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

The case examiners do consider that the social worker's alleged conduct could be remediable, for example by completion of relevant training, and demonstrating full insight into why they acted in the way they did, its impact on the public and profession, and reassurance that they will not repeat their alleged behaviour.

Insight and remediation

The case examiners consider that the social worker has shown some insight into why they acted as they did, for example, referring to the information provided to them by the police and a colleague about person A, and the potential impact on person A in reading inaccurate information. In their submissions the social worker advises that they *"totally understand the impact that this incorrect information could have had on Person A, not only had he felt he was not getting his needs met and being heard, he had then read misinformation about himself by somebody who had not seen him. He may have found this extremely upsetting and incredibly frustrating*."

The social worker acknowledges the importance of keeping "clear and accurate records,'' stating that "*until this time, I have done so and feel it is imperative to safe and effective practice to do so, I value this domain as* [redacted] *also the wider context as a member of a team, without accurate notes our role is not possible and carries huge risk (sic)*.''

The case examiners do not, however, consider that the social worker's insight is complete in relation to all the standards that they have potentially breached. This is particularly the case in relation to concern 2, which the social worker denies, as is their right, however the case examiners consider that the social worker, in submissions, remains unclear, as to what extent their role includes being able to make an independent clinical diagnosis, and how doing so may extend beyond the remit of their role and skill set.

In addition, the case examiners are of the view that social worker's assertion that they "advocated" for person A by "respectfully challenging (the police) decision to not see him and was able to have contact with him," represents a limited understanding of advocacy. While seeing person A in the cell, the social worker appears to have then engaged in a very limited conversation with them, which the evidence does not suggest took into account the person A's perspective and needs.

The case examiners have also not been provided with cogent evidence that the social worker has engaged in specific training relevant to the concerns, since they arose, of

example GDPR training. In terms of remediating for recording incorrect information, the social worker does offer some reassurance that they have changed their practice, however, stating that they now double check all information they are given. The case examiners have some concern however that the social worker refers to such checking as being "*despite it causing some confusion and awkwardness with my colleagues*." This comment suggests to the case examiners that the social worker may not be entirely comfortable with the approach that they have indicated has been adopted to improve their practice, and as such may not be workable. For example, they may not be able to articulate to colleagues they work with the importance of information relating to service users as being accurate, or to escalate any concerns they have about the approach of other professionals, with regards to providing information which is supported by evidence. The case examiners do note, however, that the concerns raised here are limited to one case, and no further concerns appear to have arisen about the social worker's practice, since these concerns were raised. They have also been provided with positive testimony from two colleagues of the social worker. However, the case examiners note that no testimony has been provided by their own managers, which could have provided stronger evidence regarding the social worker's current fitness to practise.

Risk of repetition

While the case examiners have been presented with evidence of developing insight by the social worker, they do not consider insight to be complete, and have been provided with limited evidence of remediation. As such, the case examiners conclude that some risk of repetition remains.

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.

The case examiners consider that a member of the public, fully informed of all of the circumstances of this case, would be concerned by evidence that a social worker had acted in the ways alleged in these concerns, in so doing had potentially breached a number of the required professional standards, and had demonstrated limited insight and remediation. If the concerns were subsequently found proven, the case examiners consider that a member of the public would expect a finding of impairment.

Having considered both the personal and public elements, the case examiners have concluded there is a realistic prospect that adjudicators would find 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 considered whether a referral to a hearing may be necessary in the public interest, and have noted the following:

- The case examiners guidance reminds them that "wherever possible and appropriate, case examiners will seek to resolve cases through accepted disposal. This is quicker and more efficient than preparing and presenting a case to a fitness to practise panel."
- There is no conflict in the evidence in this case and the social worker admits concerns 1 and 3.
- While the social worker does not admit concern 2, the accepted disposal process will provide the social worker an opportunity to review the case examiners' reasoning and reflect on whether they do accept the facts of that concern.
- While the social worker does not accept that their conduct is impaired, the accepted disposal process will provide the social worker an opportunity to review the case examiners' reasoning on impairment and reflect on whether they do

accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the facts, grounds, or the question of impairment in more detail.

- The case examiners are of the view that there remains a risk of repetition, however they consider that this can be managed through other sanctions available to them.

The case examiners are of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Interim order

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

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 and reminded themselves that the purpose of a sanction is not to punish the social worker, but to protect the public and the wider public interest. Furthermore, the guidance requires that decision makers select the least severe sanction necessary to protect the public and the wider public interest.

In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available sanctions in ascending order of seriousness. The case examiners considered taking no further action, but are of the view that this would not be appropriate in this instance, as it would not satisfy the wider public interest, given the seriousness of the concerns.

The case examiners next considered whether offering advice would be sufficient. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners believe that issuing advice is also not sufficient to mark the seriousness with which they view the social worker's conduct and the professional standards potentially breached, which are wide-ranging.

The case examiners then considered a warning order, which implies a clearer expression of disapproval of the social worker's conduct than an advice order. The case examiners noted from their guidance that, ordinarily, a warning order is not considered appropriate in a case where they have identified a risk of repetition, as such an order does not restrict

practice. However, the case examiners balanced this guidance against their findings that the social worker had demonstrated developing insight into the concerns raised, and that while the misconduct was considered serious and the standards breached wide-ranging, the matters raised were limited to one case. The case examiners considered that, in the specific circumstances of this case, a warning order was potentially an appropriate and proportionate outcome, and represents the minimum sanction necessary to uphold the public's confidence.

The case examiners next considered the appropriate length of any warning order proposed, and noted that they can direct that a warning order will stay on the social worker's register entry for periods of one, three or five years. According to case examiner guidance, one year might be appropriate for an isolated incident of relatively low seriousness, where the primary objective is to send a message about the professional standards expected of social workers; three years might be appropriate for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers; and five years might be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration, to maintain confidence in the profession and where it is necessary to send a clear signal about the standards expected.

The case examiners, having carefully considered all the circumstances of this case, concluded that a one-year warning order would be a proportionate response in this instance. While the case examiners do not view the incident as of 'low seriousness,' they have taken this view with particular regard to the matter being limited to one case; the social worker demonstrating developing insight and having an unblemished fitness to practise record, prior to these concerns being raised. While the case examiners have found some risk of repetition, they have noted that no concerns have emerged about the social worker since the concerns in this case were raised, and that colleagues have provided positive testimony. In light of these considerations, the case examiners consider that a one-year warning is sufficient to protect the public, maintain confidence in the profession and mark the seriousness of the concerns raised. The case examiners consider that a longer warning is disproportionate in this case, and would be unnecessarily punitive.

The case examiners have then tested their proposed sanction by considering whether a conditions of practice order would be more suitable. The case examiners are aware that the primary purpose of a conditions of practice order is to protect the public whilst the social worker takes any necessary steps to remediate their fitness to practise, and that such orders are most commonly applied in cases of lack of competence or ill health. The sanctions guidance states that conditions are less likely to be appropriate in cases of character, attitudinal or behavioural failings. Having taken into account the isolated nature of this case and the social worker's developing insight, the case examiners consider that

conditions are not necessary to protect the public and wider public confidence, and would be disproportionate.

The case examiners have therefore decided to propose to the social worker a warning order of one year'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 a number of professional standards and had the potential to have 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 adhere to the professional standards required of you. The case examiners remind the social worker of the following Social Work England professional standards (2019):

As a social worker, I will:

1.2 Respect and promote the human rights, views, wishes and feelings of the people I work with, balancing rights and risks and enabling access to advice, advocacy, support and services;

1.3 Work in partnership with people to promote their well-being and achieve best outcomes, recognising them as experts in their own lives;

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;

2.4 Practise in ways that demonstrate empathy, perseverance, authority, professional confidence and capability, working with people to enable full participation in discussions and decision making.

3.1 Work within legal and ethical frameworks, using my professional authority and judgement appropriately;

3.3 Apply my knowledge and skills to address the social care needs of individuals and their families commonly arising from physical and mental ill health, disability, substance misuse, abuse or neglect, to enhance quality of life and wellbeing;

3.5 Hold different explanations in mind and use evidence to inform my decisions;

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

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

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

3.13 Provide, or support people to access advice and services tailored to meet their needs, based on evidence, negotiating and challenging other professionals and organisations, as required.

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.

First Response from the social worker

Following their proposed accepted disposal, a warning order of one year's duration, the social worker responded requesting amendments. The social worker provided further information, which they proposed "*supported (their) argument on why (they) did not assess person A and why (they) consider it was not (their) absolute duty … to do so*". They also contended that points made by their manager, with regards to their duty to conduct assessments, was inaccurate.

Having carefully considered the information presented by the social worker. The case examiners remain satisfied that their assessment of the evidence provided to them remains accurate, in that there is some evidence to support the concerns raised; they are of the view that the social worker does not provide new information which materially affects the assessment and determination they already have made. The case examiners also highlight that the threshold that they apply is a 'realistic prospect' test; this is a low

threshold, meaning only that there is a genuine possibility of a finding being made by adjudicators in relation to the concerns raised.

Further, the case examiners also note that the information provided by the social worker is limited to concern 1, while the basis of the case examiners' assessment and proposed disposal is based on their analysis of all three concerns raised.

Case examiners' response

The case examiners request that the social worker is informed of their response, and again propose to the social worker a warning order of one year's duration, which they remain of the view is appropriate in all the circumstances of this case. They also still consider that the proposed sanction is sufficient to protect the public, maintain confidence in the profession and mark the seriousness of the concerns raised.

The social worker should be offered a further 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.

Second response from the social worker

On 21 October 2024, the social worker again responded to the proposal that this matter was concluded by way of accepted disposal warning order of one year's duration. The social worker signed a declaration confirming that they had read the case examiners' decision and the accepted disposal guide. The social worker also confirmed that they admitted the key facts set out in this decision and that their fitness to practice is impaired. The social worker confirmed that they understood and accepted in full the terms of the proposed disposal of their fitness to practice case.

Case examiners' response and final decision

The case examiners have reviewed their decision, paying regard to the overarching objective of Social Work England: protection of the public, the maintenance of public

confidence in the social work profession and upholding professional standards. The case examiners remain satisfied that an accepted disposal (warning order of one year's duration) is a fair and proportionate way to address the concerns and is the minimum necessary to protect the public and satisfy the wider public interest.