

Case Examiner Decision
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FTPS-23509

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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	12 November 2024
	Accepted disposal proposed - warning order (1 year)
Final outcome	19 November 2024
	Accepted disposal - warning order (1 year)

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 ground of a conviction or caution in the United Kingdom for 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 be notified of their intention to resolve the case with a warning order of 1 year. The social worker accepted the proposal 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.

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.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker.
Date the complaint was received	23 April 2024
Complaint summary	The social worker self-referred stating that they were arrested on suspicion of drink driving on 23 March 2024 and were later charged with failing to provide a specimen of breath. The social worker pleaded guilty and received an 18 month ban from driving.

Regulatory concerns

1. On 24 April 2024 you were convicted of an offence of failing to provide a specimen for analysis.

Grounds of impairment:

The matters outlined in 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.

Preliminary issues

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

Requests for further information or submissions, or any other preliminary issues that have arisen

The 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 this concern could amount to the statutory ground 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

- 1. On 24 April 2024 you were convicted of an offence of failing to provide a specimen for analysis.**

The case examiners have seen the social worker's initial referral, along with the MG5 and the certificate of conviction from Chelmsford Magistrates' Court.

The police documentation states that the social worker was arrested following a call from a member of the public, who had observed a vehicle driving through roadworks, heading towards the central reservation, swerving around and driving at excess speed. The member of the public believed the driver to be intoxicated. Upon attending the social worker's address, the social worker was discovered in the driver's seat of the car with the engine on, parked at the roadside. They were required to provide a specimen of breath at the roadside, and blew 63 micrograms per 100 millilitres of breath, which indicated that the driver was over the prescribed limit of 35 micrograms.

The social worker was arrested for driving whilst over the prescribed limit of alcohol. However, after being transported to the police station, despite being asked several times the social worker refused to provide an evidential sample of breath.

The certificate of conviction dated 24 April 2024 states that the social worker was convicted for failing to provide a specimen of breath for analysis.

The social worker in their submissions accepts this concern.

The evidence suggests that the social worker was convicted of the offence as set out in the regulatory concern.

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

Grounds

A conviction or caution in the United Kingdom for a criminal offence.

As set out in the facts section of this decision, the case examiners have seen documentation from the police and courts which confirm the conviction received by the social worker.

The case examiners are satisfied there is a realistic prospect of adjudicators finding that this amounts to the statutory ground of conviction or caution in the United Kingdom for a criminal offence.

Impairment

Personal element of impairment

In considering the personal element of impairment, the case examiners have considered the test for personal impairment as set out in the case examiner guidance (2022), namely whether the conduct is remediable; whether the social worker has undergone remediation and demonstrated insight; and whether there is a likelihood the matters alleged will be repeated.

The social worker has shown insight into their alleged conduct, albeit they did not initially. The case examiners note in the social worker's self-referral, they suggested that their judgment was impaired following a highly emotive discussion with family members in respect of a [REDACTED]

[REDACTED] They stated, *'I do feel the shock of the whole arrest,*

- The social worker received a driving ban of 18 months, which was to be reduced by 18 weeks following the completion of a drink awareness course.
- The extent to which the social worker's level of alcohol or drug impairment was over the legally specified limit. In this instance, the roadside test indicated that the social worker may have been significantly over the limit.
- The circumstances of the offence suggest the social worker was uncooperative with the police, refusing to provide a sample of breath for analysis, as required by law. In this instance, the conviction relates to them not providing an evidential specimen.

The case examiners have then considered the following mitigating factors:

- This evidence suggests that this was the social worker's first offence.
- The social worker has demonstrated remorse and insight into their behaviour.
- The social worker has undertaken some remediation in the form of attending a drink awareness course and reflecting on learning from this.
- There is evidence to suggest that the social worker is of otherwise good character.

Although the case examiners are satisfied the social worker has learnt from the incident and is unlikely to repeat this conduct, they remind themselves that the social worker's actions had the potential to harm others.

The case examiners consider that members of the public may lack confidence in a social worker who, having been arrested as a result of driving whilst under the influence of alcohol, subsequently failed to provide a specimen of breath when required to do so by law, and then provided misleading information initially to their regulator in respect of the reasons for failing to do so. The case examiners are of the view that, in the circumstances of this case, a member of the public may be troubled to learn that a social worker had been allowed to practise without sanction from their regulator.

Furthermore, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

Accordingly, particularly given the element of public interest, the case examiners are satisfied that there is a realistic prospect of the adjudicators making a finding of current impairment.

The public interest

Decision summary

Is there a public interest in referring the case to a hearing?	Yes	☐
	No	☒

Referral criteria

Is there a conflict in the evidence that must be resolved at a hearing?	Yes	☐
	No	☒
Does the social worker dispute any or all of the key facts of the case?	Yes	☐
	No	☒
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 noted that whilst the social worker accepts the facts, they have indicated that they do not consider their fitness to practise to be currently impaired.

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

- There is no conflict in evidence in this case and the social worker accepts the facts of the concern.
- The social worker is clear that they accept that their practice fell short of the standards expected of them. In their written statement to the employer's investigation, the social worker stated, *'I sincerely acknowledge my mistake and understand the implication on my practice'*.

- The case examiners are of the view that the risk of repetition is low, therefore the main purpose of any sanction would be to set out the expectations of social workers and to satisfy the public interest in this case.
- The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest limb of impairment may be engaged, or how exactly this might impact upon findings concerning current fitness to practise.
- The accepted disposal process will provide the social worker an opportunity to review the case examiners reasoning on impairment and reflect on whether they are able to 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, 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	1 year	

Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance (December 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 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 considered taking no further action. They note paragraph 95 of the sanction's guidance which states, when decision makers find impairment, an outcome of 'no further action' is rare. Further, the case examiners were of the view that a conviction for failing to provide a specimen of breath, indicating a lack of cooperation with a lawful request by the police, was serious, and that taking no further action did not reflect their consideration of the public interest in this case.

The case examiners 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. However, the case examiners consider that advice would not be sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners next gave careful consideration to whether a warning order might be suitable, given that it would show clear disapproval of the social worker's conduct. The case examiners concluded there is a low risk of repetition in this case, and their

guidance suggests that warnings may be appropriate in such circumstances. The case examiners determined that a warning was the most appropriate and proportionate response in this case and was the minimum necessary to protect the public and the wider public interest. A warning will serve as a signal that any repetition of the behaviour that led to the concerns is highly likely to result in a more severe sanction.

In considering the duration of the warning, the case examiners have had regard to the sanctions' guidance which states, '1 year 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. 3 years may be appropriate for more serious concerns. This helps to maintain public confidence and highlight the professional standards. The period also allows more time for the social worker to show that they have addressed any risk of repetition.'

The case examiners consider one year to be proportionate in this case to maintain public confidence and to send a message to the public, the profession and the social worker about the standards expected from social workers. This was a finally balanced determination, as the case examiners do not consider that the matter, albeit isolated, is of 'relatively low seriousness'. However, the case examiners have noted the positive insight and remediation provided in final submissions and are of the view that the social worker does not require additional time to fully address the risk of repetition. Therefore, the primary purpose of the warning in this case is to highlight the professional standards expected of social workers. The case examiners do not consider that the matter fell marginally short of the need to restrict practice, and therefore five years would be disproportionate and punitive. To confirm, the case examiners are satisfied that a warning of one year duration is the proportionate sanction.

The case examiners did go on to consider whether the next sanctions, conditions of practice and suspension, were more appropriate in this case. As the case examiners consider the risk of repetition is low, a conditions of practice order would not be necessary in this case and is more commonly suited to cases relating to health, competence or capability. The case examiners considered that suspension from the register would also be a disproportionate and punitive outcome, where the risk of repetition had been determined to be low.

To conclude, the case examiners have decided to propose to the social worker a warning order of one-year 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:

Failing to provide a specimen of breath for analysis is a serious criminal offence. The evidence also suggests that you were likely to have been driving while over the prescribed limit for alcohol, and your decision to drive in this instance, demonstrated a serious lack of judgement. You put yourself and members of the public at risk of harm. Your subsequent decision, which led to your conviction, to not provide a specimen demonstrates a further lack of judgement.

Your conviction could have an adverse effect on the public's confidence in you as a social worker. It may also damage the reputation of the social work profession.

The case examiners remind the social worker of the following Social Work England professional standards (2019):

As a social worker, I will not:

5.2 Behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

This conduct should not be repeated. Any further criminal offences or similar matters brought to the attention of the regulator are likely to result in a more serious outcome.

Response from the social worker

The social worker responded on 14 November 2024 and confirmed that they had read and understood the terms of the proposed disposal. They confirmed that, *'I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full'*.

Case examiners' response and final decision

The case examiners are satisfied that the social worker has read and accepted the proposed accepted disposal of a one year warning order.

The case examiners have again considered the public interest in this matter and, as they have not been presented with any new evidence that might change their previous assessment, they are satisfied that it remains to be the case that the public interest in this case can be fulfilled through the accepted disposal process.

The case examiners therefore direct that Social Work England implement a warning order of one year.