



Case Examiner Decision

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FTPS-19449

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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 1	29 November 2023
	Information requested Submissions requested
Preliminary outcome 2	22 July 2024
	Accepted disposal proposed - conditions of practice order (2 years)
Final outcome	12 August 2024
	Accepted disposal - conditions of practice order (2 years)

Executive summary

The case examiners initially paused their consideration of this case to request amendments to the regulatory concerns, together with submissions from the social worker.



The case examiners have subsequently reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1, being found proven by the adjudicators. 

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2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of adverse physical or mental health.
 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 conditions of practice order of 2 years duration, subject to the social worker's agreement.

The social worker accepted this proposal and the terms in full on 11 August 2024. Following this response, the case examiners reviewed their decision and remain of the view that an accepted disposal by way of a conditions of practice order of 2 years duration is a fair and proportionate disposal, and the minimum necessary to protect the public and the wider public interest.

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 any 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	Concerns were initially raised by way of a self-referral by the social worker. The social worker's former employer raised further concerns during the course of the regulator's investigation.
Date the complaint was received	20 April 2021
Complaint summary	The social worker initially advised Social Work England of health issues, [REDACTED]. Further concerns regarding the social worker's health and/or conduct were identified by the social worker's former employer and by the regulator during the course of the fitness to practise investigation.

Regulatory concerns

Whilst registered as a social worker

1. You have health conditions as set out in Schedule 1 which have the potential to affect your practice



Grounds of impairment:

By reason of your adverse physical or mental health, your fitness to practise as a social worker is impaired.

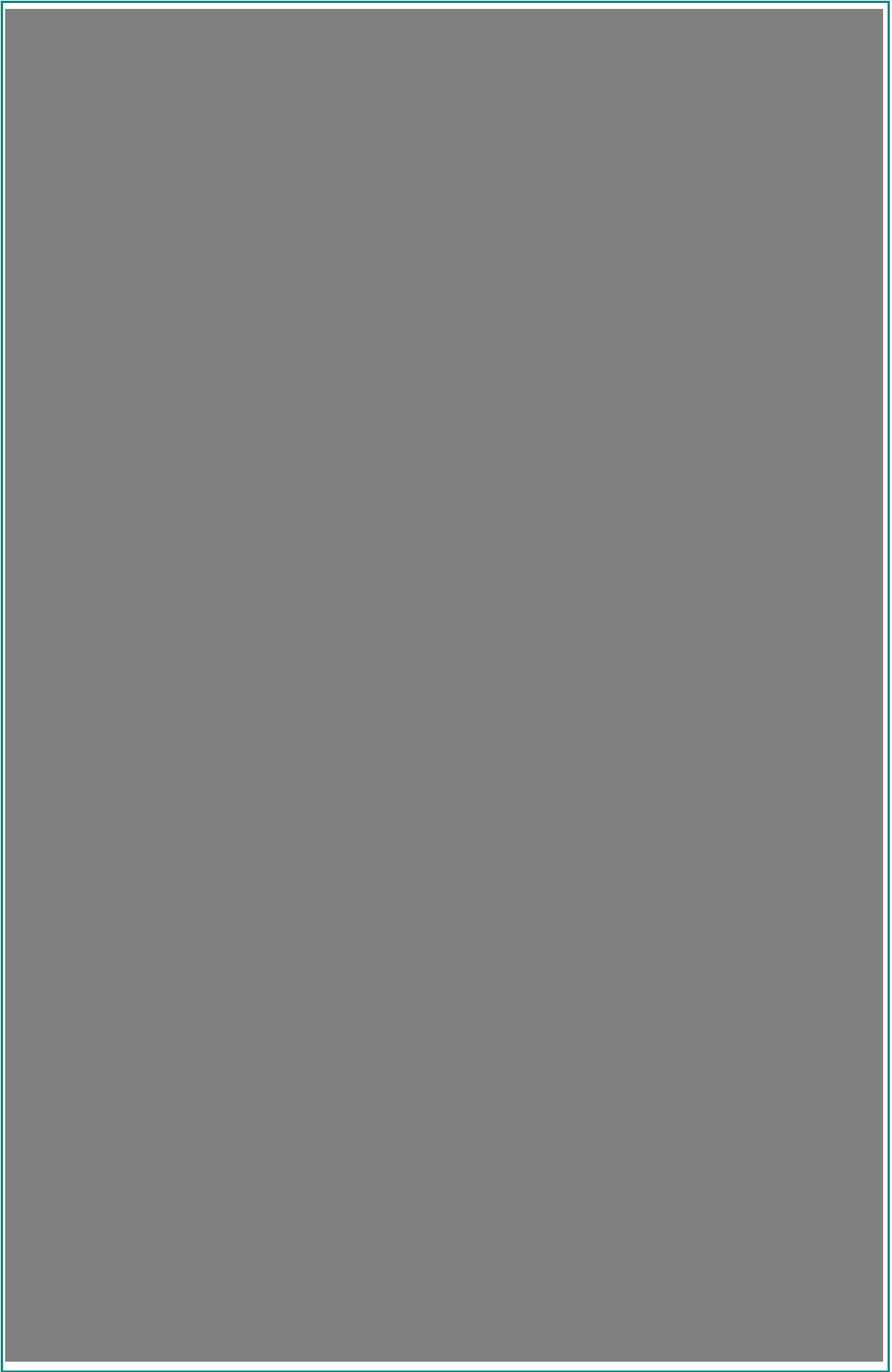


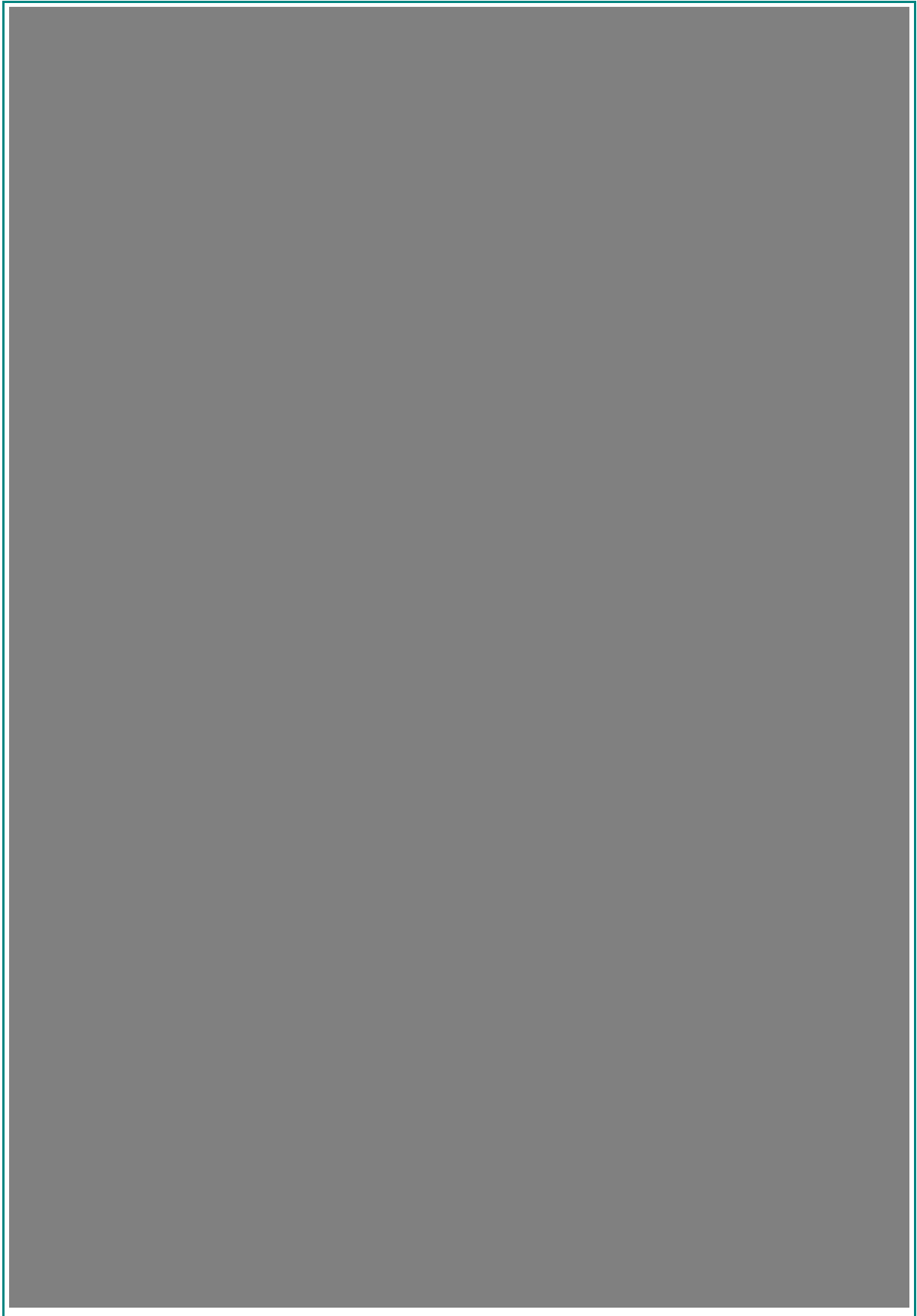
Preliminary issues

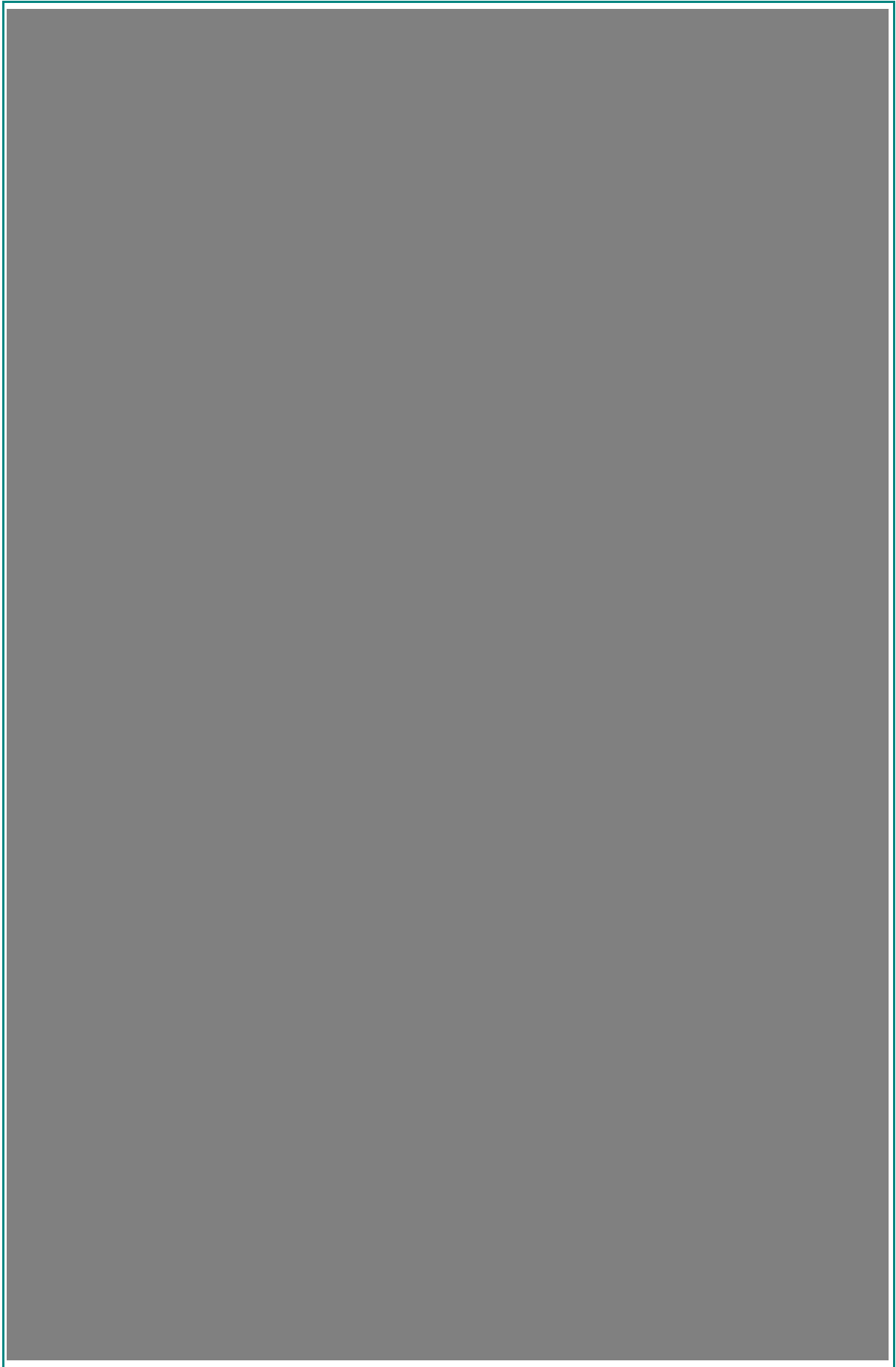
Investigation		
Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?	Yes	☒
	No	☐
Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?	Yes	☒
	No	☐
Are the case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

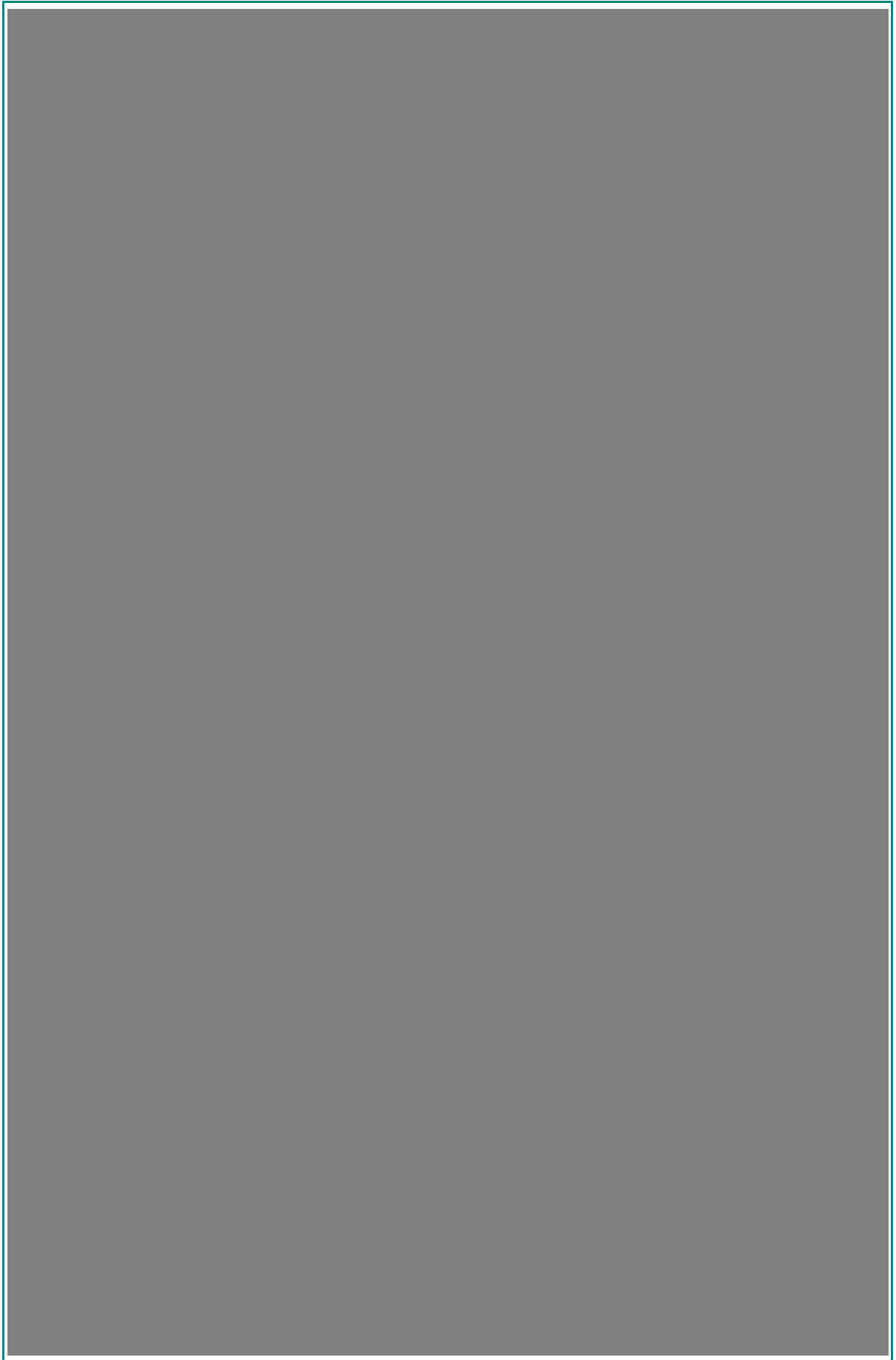
Requests for further information or submissions, or any other preliminary issues that have arisen

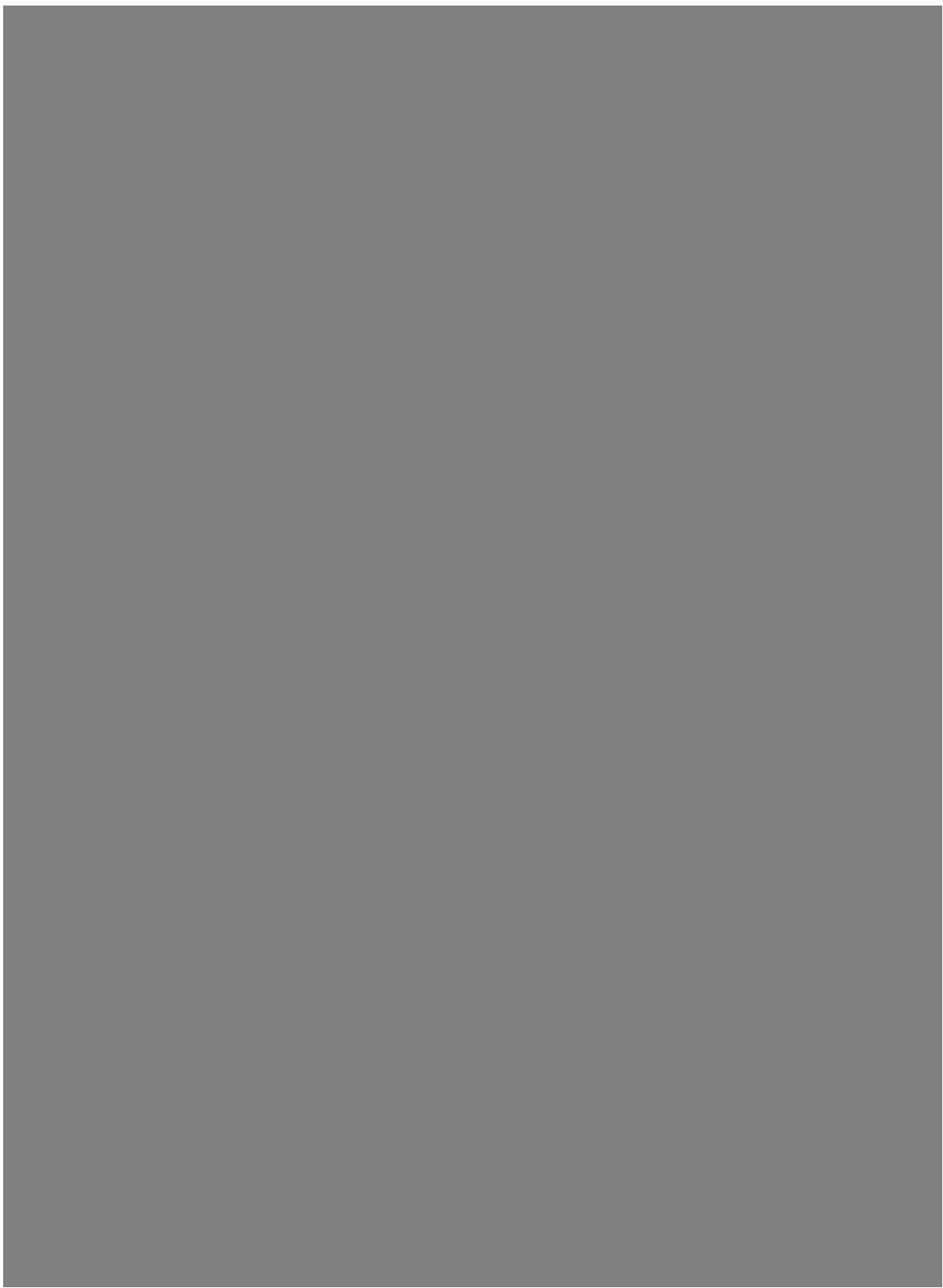
The case examiners initially paused consideration of the case on 29 November 2023, as they considered that there was further information that was necessary for them to obtain in order to make a determination. The case examiners also requested that the social worker was given another opportunity to comment on any new information.











Preliminary Decision 2 – 22 July 2024

The case examiners have noted the amendments to concerns and grounds reflected in the subsequent case investigation report, and the inclusion of requested additional

evidence in the main bundle. [REDACTED]

The case examiners are satisfied that they now have all relevant evidence made available to them, and consider to be in the public interest and in the interests of the social worker to make a determination on the concerns presented to them.

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 grounds of adverse physical or mental health, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker

1. You have health conditions as set out in Schedule 1 which have the potential to affect your practice



The case examiners have noted evidence which they consider supports this concern, including:

Evidence from the social worker:

The self-referral form submitted by the social worker on or around 20 April 2021 asks a social worker to submit “issues that affect your fitness to practice”. [REDACTED]

[REDACTED]

An email from the social worker of 6 July 2021 provides further information regarding their health: [REDACTED]

[REDACTED]

Evidence from social worker’s former employer (the local authority):

The local authority reports that since February 2020, the social worker has regularly been absent from work due to health issues. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In their email of 9 July 2021 to Social Work England the local authority states that while the social worker had previously had “*an unblemished record*” with the local authority, due to the social worker having not been present at work for any length of time since [REDACTED] October 2019, they are unable to comment on the social worker's ability to practise as a social worker.

Further communications from the local authority to Social Work England (email of 12 July 2021) allege that while suffering from ill-health, [REDACTED] actions taken by the social worker in their private life would have caused the local authority challenge, if the social worker had not resigned: “*In my professional opinion some of the information and circumstances that the social worker has shared with us have caused me to question her suitability to work as a social worker...*”

During the course of the investigation the local authority provide further information (email dated 5 August 2021) indicating that the social worker’s health issues had some adverse impact on their work, including a risk of harm to service users:

“*(The social worker) has tried two phased returns to work during her extended period of absence ... both failed ... [REDACTED] (the social worker’s) attendance at work is unpredictable, her client records were not accurate or up to date, in her absence this work needed to be reallocated. Due to the nature of her role, social worker in the adult safeguarding service, this placed people at risk.*”.

The local authority also report the social worker having provided them with inconsistent accounts of the support they were receiving and how their health issues were being managed.

[REDACTED]

[REDACTED]

Medical evidence:

Occupational Health Report: The social worker engaged with a telephone health management assessment on 19 May 2020 with a consultant occupational health physician, having been referred by the local authority. [REDACTED]

[REDACTED]

[REDACTED] The assessment recommends a phased return, and suggests limitation to the type of work the social worker should initially be engaging in.

GP records dated 17 March 2022 confirm a [REDACTED] diagnosis [REDACTED]

[REDACTED]

[REDACTED] The records also indicate that in December 2020, [REDACTED]
[REDACTED] the GP states that they do not feel able to answer a question regarding the social worker's fitness to practise. [REDACTED]

[REDACTED]

A [REDACTED] report records an independent assessment of the social worker's health on 15 November 2022, the conclusions of which support the diagnosis sets out in schedule 1.

[REDACTED]

[REDACTED]

In their closing opinions, the [REDACTED]

[REDACTED]

[REDACTED] did not consider [REDACTED]
to be in remission *“as there needed to be a minimum period of six months of relative or
absolute well-being”*. [REDACTED]

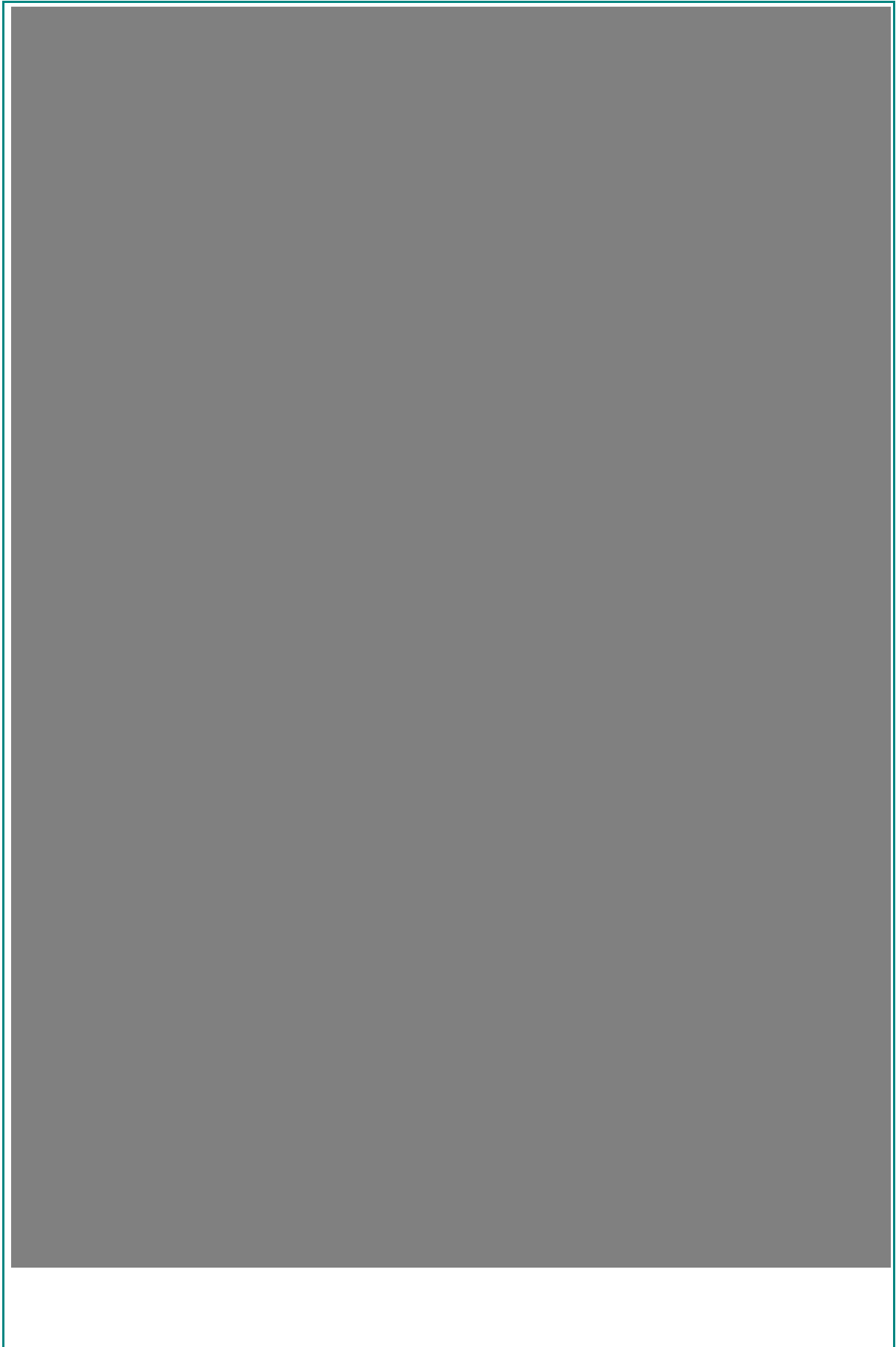
[REDACTED]

[REDACTED]

From the information presented to them the case examiners are satisfied that there is evidence to indicate that the social worker has the health conditions as set out in Schedule 1 , and that these may have affected the social worker’s practice.

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

[REDACTED]



Grounds

In relation to concern 1, the case examiners have been presented with the grounds of adverse physical or mental health.

The key question when considering the grounds is the potential risk to public safety, which depends on the nature of the health condition and on the social worker's level of insight, in particular, their willingness or ability to self-limit their practice appropriately in light of their health condition.

The medical evidence provided to the case examiners indicates that the social worker has experienced various forms of ill health as outlined in schedule 1, requiring interventions and support spanning a number of years, and which both pre-date and post-date the relevant period of the concerns. In March 2022, their GP indicated a reluctance to advise on the social worker's fitness to practise as a social worker, indicating that they felt that this question would be better answered by an occupational health professional. While the GP commented positively on the social worker's engagement in a treatment plan for their health issues,

The subsequent independent report dated 22 November 2022 has highlighted

a factor likely to impact negatively on their health conditions. While this report is also encouraging in terms of the potential for the social worker to recover and become an *"effective social worker again"*, it suggests that the social worker is not as ready as they believe themselves to be to return to work. It advises that while the social worker had indicated that they felt they had been ready to return to work for the previous three months, *"a more cautious approach is required"*.

The also advises a review after six months, which is to be informed by updated GP records concluding that if the social worker *"has been able to sustain progress, she could then return to work, with adequate arrangements in place for monitoring and support."*

[REDACTED]

The case examiners have noted evidence that the social worker has sought support from their GP for health concerns, and also removed themselves from practice with sustained periods of certified sickness absence. However, while this may indicate that they have tried to manage their health issues, there is also evidence to suggest that the social worker has not been able to do so consistently without potentially putting members of the public, [REDACTED] at risk. For example, both managers and the psychiatric report have indicated that, at times, the social worker may have considered themselves fit to work when that was not the case. [REDACTED]

[REDACTED]

As such, the case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the grounds of adverse health proven in relation to concern 1.

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 are not of the view that the social worker's alleged adverse health conditions can be "easily remedied". [REDACTED]

[REDACTED]

[REDACTED]

However, there is also evidence that the social worker has been able to practise effectively for sustained periods previously. While their employer stated that they were unable to comment on the social worker's current fitness to practise in July 2021, in the period of the social workers employment with the local authority from November 2017 until maternity leave (October 2019) the social worker was reported to have had *"an unblemished record with (the local authority) being a conscientious and thoughtful practitioner who is immensely proud to be a social worker. The quality of her work demonstrating the value and importance she places on the individual she is working alongside"*.

The case examiners are of the view that the health conditions could therefore be remedied, [REDACTED]

[REDACTED]

Insight and remediation

The social worker has shown some insight and remediation. This includes evidence of them regularly seeking support from their GP for their health conditions [REDACTED]
[REDACTED] However, there is also evidence that the social worker has not been consistently open with their employer or Social Work England [REDACTED]
[REDACTED]

The case examiners have also noted evidence indicating that the social worker may have sought to work when they were not fit to do, potentially due to a lack of awareness of how their health was impacting on their fitness to practise or due to financial pressures. While the social worker states that their health *"has never directly effected my direct practice with any individual I have supported"* they have not addressed the potential indirect impact that their adverse health is reported to have had on their work [REDACTED]
[REDACTED]

[REDACTED] While the social worker's recent submissions are that, while they were previously [REDACTED]

they are “now healthy and so strong”, they have not addressed or outlined the steps they have engaged in to address their long-standing health issues.

The case examiners also note that the social worker is not currently practising as a social worker and does not appear to have been for some time. As a consequence, the case examiners have not been presented with any evidence to reassure them that the social worker has been able to practise as a social worker without fitness to practise concerns being raised, since the concerns subject to consideration in this case were realised. They also note the conclusions of the independent who indicated that, even when the social worker was “*able to sustain progress “and return to work “adequate arrangements in place for monitoring and support”*” would be required.

Risk of repetition

The case examiners are of the view that in light of the evidence indicating relatively by the social worker, together with an absence of more detailed and specific evidence of insight and remediation, there is a risk of repetition if the social worker were to return to unrestricted practise.

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.

Given the nature of the concerns raised, the case examiners consider that adjudicators may determine that the public would expect a finding of impairment recorded against a social worker in the circumstances outlined in this case, Furthermore, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

Accordingly, the case examiners are satisfied that there is a realistic prospect of adjudicators finding that the social worker’s fitness to practise is 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 noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired. However, there is no conflict in evidence in this case, and the social worker accepts the key facts of concern 1.

Further, the case examiners recognise that not all professionals will have an innate understanding of how and when the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise. They consider that the accepted disposal process will provide to 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 have also noted their guidance on health concerns, which advises that *"even if a question of health impairment does arise, the best outcome involves us agreeing with the social worker what level of restriction is needed to protect the public*

while they recover their health. Ideally this should happen without the need for a fitness to practise hearing through ... accepted disposal."

Further, 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	2 years	

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 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 determined that taking no further action was not appropriate in a case where the social worker had, as alleged, been diagnosed with a health condition which they considered had the potential to adversely affect the social worker's fitness to practise, either now or in the future. This would not provide the necessary level of public protection and would not satisfy the wider public interest. It would also not be in the social worker's interests.

The case examiners next considered whether offering advice or issuing a warning 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 concerns. A warning is usually issued to serve as a clear expression of disapproval of the conduct that led to the regulatory concerns. As the underlying issues in this case include adverse health which could present a future risk, the case examiners do not consider offering advice or a warning to be appropriate.

The case examiners concluded that the appropriate and proportionate outcome was for a Conditions of Practice Order to be imposed on the social worker's registration; they consider that the social worker has demonstrated some insight, and that workable conditions are achievable. Conditions will provide the social worker a supportive framework within which to return to practise while protecting the public from any future risk. It will also enable the regulator to maintain oversight and supervision of the social worker's practice and be assured they are accessing the appropriate support in the event of any continuing adverse health concerns or their health deteriorating on a return to working as a social worker. Furthermore, the case examiners are satisfied that appropriately restricted practice does not pose a risk of harm to the public or others.

The case examiners did consider whether the next available sanction, suspension, would be more appropriate in this case. However, it was their view that, given some evidence of insight, suspension would be punitive, and it would be disproportionate to prevent an experienced social worker with positive testimony regarding their effectiveness prior to health concerns arising, from returning to practice when public protection could be achieved by a conditions of practice order.

In terms of duration, guidance states that conditions can be imposed for up to three years at a time. When considering the timescale for the conditions, the case examiners have determined that a period of two years would be appropriate in this case. The case examiners are of the view that imposing conditions for a shorter period would not be appropriate, given the number of years that the social worker has been diagnosed with their health conditions, and no evidence of them having practised since the health concerns were raised in this case. They also consider a longer period unnecessary at this stage; a two-year period provides the social worker sufficient opportunity to return to a registered role and demonstrate they can manage their health conditions and practise safely. The order can also be reviewed early if there is new information which suggests that the order is no longer appropriate or proportionate to the circumstances.

The case examiners will notify the social worker of their proposals in respect of a two-year conditions of practice order and seek the social worker's agreement to dispose of the matter accordingly; the social worker will be offered 21 days to respond. Should the social worker not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter is likely to proceed to a final hearing.

Content of the conditions of practice

Conditions 1-23 (inclusive) should be in place for a 2-year period. In accordance with paragraph 15 of Schedule 2 of The Social Workers Regulations 2018, the regulator must review the conditions of practice order before its expiry. The social worker and/or Social Work England can seek early review if new evidence becomes available to suggest the current order needs to be varied, replaced or removed.

1 You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.

2 You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter or workplace supervisor referred to in these conditions.

3a At any time, you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter nominated by you and approved by Social Work England. The reporter must be on Social Work England's register.

3b You must not start or continue to work until these arrangements have been approved by Social Work England.

4 You must provide reports from your reporter to Social Work England every 4 months and at least 14 days prior to any review and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.

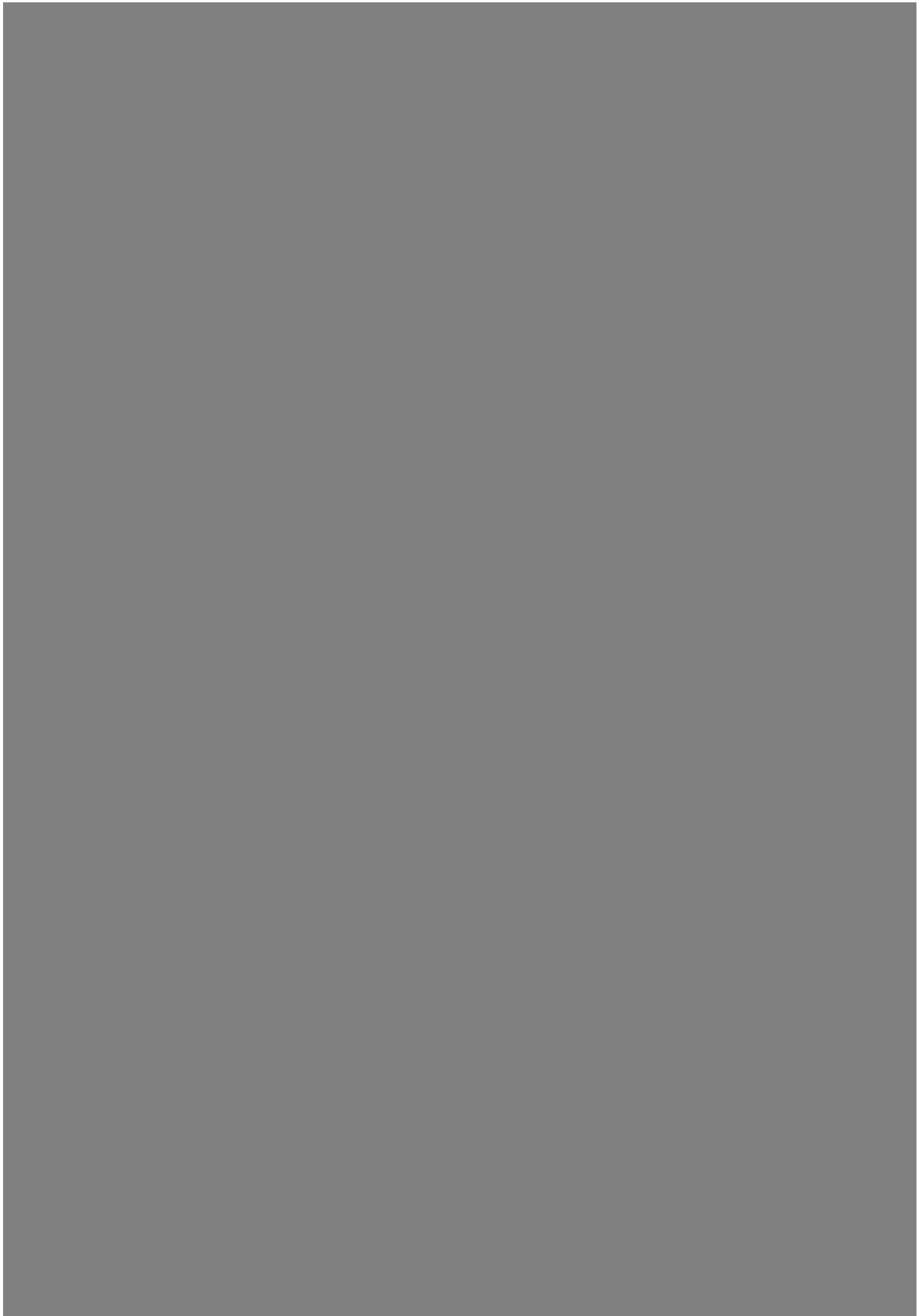
5 You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.

6 You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.

7 You must inform Social Work England if you apply for social work employment/self-employment (paid or voluntary) outside England within 7 days of the date of application.

8 You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within 7

days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].





16 You shall not engage in single-handed social work practice and shall only work at premises where another registered social worker is working at the same time as you are working and with whom you have made personal contact with before you commence work each day.



22 You must provide a written copy of your conditions, within 7 days from the date these conditions take effect, to the following parties confirming that your registration is subject to the conditions listed at 1-21b above:

- Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.
- Any locum, agency or out-of-hours service you are registered with or apply to be registered with in order to secure employment or contracts to undertake social work services whether paid or voluntary (at the time of application).
- Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application).
- Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.

You must forward written evidence of your compliance with this condition to Social Work England within 14 days from the date these conditions take effect.

23 You must permit Social Work England to disclose the above conditions 1-8, 16, and 22 to any person requesting information about your registration status.

Response from the social worker

The social worker responded by email on 11 August 2024 and returned the accepted disposal response confirming that they had:

- read the case examiners' decision and the accepted disposal guidance;
- admitted the key facts set out in the case examiners decision, and that their fitness to practise was impaired;
- understood the terms of the proposed disposal of their fitness to practise case and accepted them in full.

Case examiners' response and final decision

The case examiners concluded that the social worker's fitness to practise was likely to be found impaired, but that the public interest could be met through a prompt conclusion, published decision and a conditions of practice order, rather than through a public hearing. They proposed a conditions of practice order of 2 years duration, and the social worker accepted this proposal.

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

The case examiners also again turned their minds as to whether the proposed disposal remained the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, the case examiners remain of the view that an accepted disposal by way of a conditions of practice order of 2 years duration is a fair and proportionate disposal, and is the minimum necessary to protect the public and the wider public interest.