

Case Examiner Decision

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FTPS-23184

Contents

The role of the case examiners	3
Decision summary	4
The complaint and our regulatory concerns.....	6
Preliminary issues	7
The realistic prospect test	8
The public interest.....	15
Accepted disposal	17

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	24 February 2025
	Accepted disposal proposed – warning order (5 years)
Final outcome	12 March 2025
	Accepted disposal agreed – warning order (5 years)

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. [REDACTED]
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of misconduct.
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 that the case could be concluded by way of accepted disposal.

As such, the case examiners have requested that the social worker be notified of their intention to resolve the case with a warning order of five years. The social worker submitted a completed accepted disposal response form confirming their acceptance of the proposal. Alongside this, the social worker requested two factual

amendments to the report, which the case examiners agreed to make. Neither amendment was material to the case examiners' decision making.

The case examiners have considered all 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 [REDACTED] will be redacted only from the published copy of the decision and will therefore be shared with the complainant in their copy.

In accordance with Social Work England's fitness to practise proceedings and registration appeals publications policy, the case examiners have anonymised the names of individuals to maintain privacy. A schedule of anonymity is provided below for the social worker and complainant and will be redacted if this decision is published.

Service User A (SU A)	[REDACTED]
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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	29 January 2024
Complaint summary	The initial concern was received by a self-referral email on 29 January 2024. The concern is regarding a breach of professional boundaries between the social worker and a vulnerable service user (SU A) who was on the social worker's caseload. Following an internal investigation, the social worker was suspended and then dismissed by their employer.

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:

1. On or around 10 November 2023 you breached professional boundaries in that you asked Service User A (SU A) for a kiss.

[REDACTED]

Grounds of impairment:

The matters outlined in regulatory concern 1 [REDACTED] amounts to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of your 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 concern 1 being found proven, that this concern could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

1. On or around 10 November 2023 you breached professional boundaries in that you asked Service User A (SU A) for a kiss.

It is not in any factual dispute that the social worker asked SU A for a kiss. There is a body of evidence from the social worker, and the social worker's team manager via secondary reporting from SU A, that this request is likely to have occurred. The alleged facts are also supported by evidence obtained from an internal employer investigation. The outcome of which was a dismissal for gross misconduct.

For context, this event allegedly occurred on a home visit to SU A's address on 10 November 2023. SU A was noted to be a vulnerable adult; [REDACTED]

[REDACTED] The social worker had known SU A for over two years and had built up a professional relationship of trust with them.

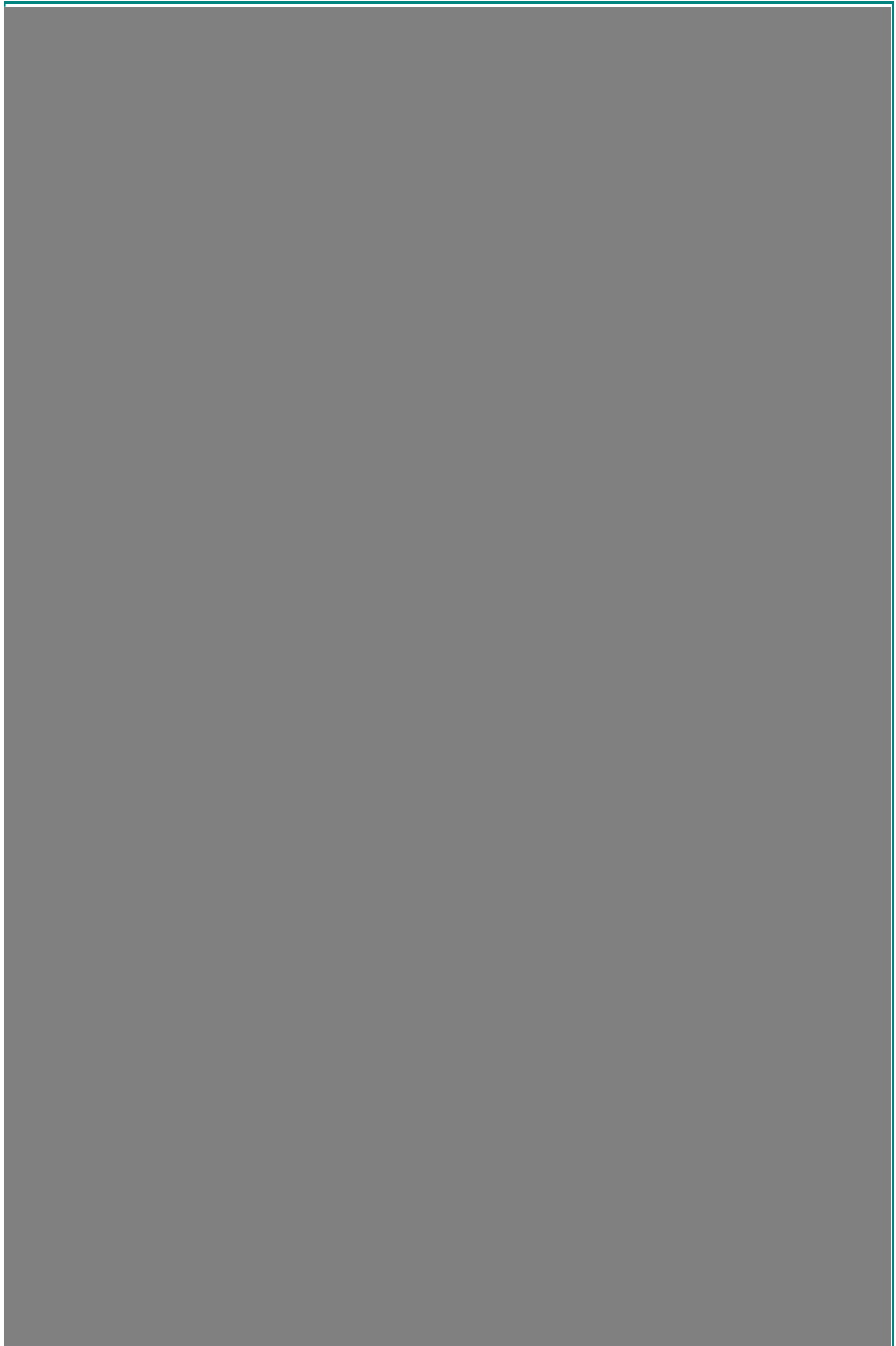
It is reported in an investigatory evidence interview transcribed between the employer and the social worker, that during the visit the social worker started to talk to SU A about their vulnerabilities. The social worker talked about their own experiences about their past. [REDACTED]

[REDACTED] The social worker asked SU A if they could give them a kiss after speaking about their vulnerabilities. SU A responded by saying that they 'don't believe in that'. The social worker said that they apologised and that they hoped they hadn't offended them. The social worker said it was not their intention to upset them but to console them. The social worker also sent a text to SU A to apologise.

Testimony from the social worker's manager reported that the social worker reported the alleged incident to them first. This was followed up by multiple messages left by SU A, to their manager via WhatsApp, asking them to call them. The manager had a telephone discussion with SU A to discuss the alleged incident. SU A reported to the manager that the event made them feel 'uncomfortable and unsafe'.

Initial submissions from the social worker do not dispute this regulatory concern. They acknowledge that professional boundaries became blurred and that they acted inappropriately. They accepted that SU A had requested a change of social worker and that it had caused them not to trust male social workers.

In review of the evidence, the case examiners consider **that there is a realistic prospect of the adjudicators finding the facts proven for regulatory concern 1.**



Grounds

The case examiners are aware that there is no legal definition of misconduct, but it generally would 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 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, which were applicable at the time of the concerns.

I will:

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.

2.2 Respect and maintain people's dignity and privacy.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

4.8 Reflect on my own values and challenge the impact they have on my practice.

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.

The case examiners consider that the social worker engaged in a serious act which would have represented a significant and wide-ranging departure from the listed standards. While they accept that this was a single isolated incident, it was serious enough to warrant summary dismissal by their employer for an act of gross misconduct. In review of the evidence, the case examiners are satisfied that adjudicators may consider the social worker's conduct to represent a significant departure from the professional standards for the following reasons:

- Their alleged actions clearly 'crossed the line' of acceptable practice.
- Their actions caused significant, damaging and arguably, potentially lasting distress to SU A.
- This was exacerbated by information to suggest that SU A was vulnerable; [REDACTED]
- The social worker's 'delay' in leaving the house following a request by SU A to leave, is likely to have caused SU A further undue distress. While the case examiners accept some of the social worker's mitigation and rationale for this, it represents further evidence of very poor awareness and conduct.
- The action of asking for a kiss was the culmination of a continued breach of professional boundaries, brought about by a situation where the social worker should not have been disclosing their past experiences to SU A.

The case examiners consider that there is a realistic prospect that adjudicators would find the ground of misconduct to be engaged.

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 consider 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 alleged act of the social worker could be considered as a potential character flaw, so being difficult to remediate. However, given that it appeared to be an isolated act, this is far less likely to be the case. The case examiners therefore consider this type of action to be remediable. The social worker could engage in enhanced reflection, supervision and training in professional boundaries and appropriate methods of conduct.

Insight and remediation: The social worker has offered a clear pattern of insight and remediation in relation to their submissions. They are remorseful, regretful and accepting of the general facts in principle and have shown some considerable insight into the potential reasons for their prior alleged behaviour. They appear to have reflected deeply in relation the causes of their alleged actions and have made efforts to ensure these would not occur in future.

They have reviewed codes of practice and standards in relation to professional conduct and professional boundaries. However, the case examiners note that while this is satisfactory, the social worker does not appear to have engaged in formalised training, which would be to their benefit.

Risk of repetition: It is notable that the social worker has refrained from practising until the outcome of this investigation and determination is complete. While this potentially risks deskilling the social worker, this act also shows demonstration of insight, so reducing any risk of repetition. There is evidence that despite this alleged incident, the social worker was well regarded in their prior professional position and had a good reputation for reliability and positive practice. In support of their practice,

they have provided three positive testimonials. While the social worker disputes current impairment, they accept their mistakes and make assurances that this kind of behaviour would not occur in the future. The case examiners consider that given good insight and some remediation, the risk of future repetition is likely to be low.

Public element

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

The case examiners consider that an ordinary member of the public, who had been informed of the circumstances of this case, would be highly concerned to learn of the social worker's alleged conduct. They would consider these alleged actions to be a serious matter, resulting in distress to a vulnerable person. They would consider those alleged actions to be a significant threat to the public confidence of social work as a profession. This is because social workers are not supposed to behave in such a manner when visiting a member of the public's home. They would therefore expect that proper standards for such a social worker be maintained.

Accordingly, the case examiners consider a realistic prospect of the adjudicators making a finding of impairment in this case.

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 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. The case examiners note that the social worker disputes impairment. The accepted disposal process will provide the social worker with the opportunity to review the case examiners reasoning on facts, grounds and 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 in public if they wish to reject the case examiners finding on the facts and grounds or explore the question of impairment in more detail.

The case examiners are aware that a case cannot be concluded through an accepted disposal process where a social worker does not agree that they are currently impaired. At this stage, however, the case examiners' proposal for an accepted disposal process does not mark the conclusion of the case, as that would require a response from the social worker for the case examiners' consideration.

It is also subject to a final review of the case by the case examiners, who may determine to send the matter to a hearing in public following any response received.

Accepted disposal

Case outcome

Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	5 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 a sanction is not to punish the social worker but to protect the public and the wider public interest.

In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness.

The case examiners commenced by considering whether it may be appropriate to reach a finding of impairment, with no requirement for any further action. The case examiners were satisfied that in this case, and considering the seriousness of the concerns raised that a finding of no further action would be insufficient to protect public confidence.

The case examiners next considered whether offering advice would be sufficient in this case. Advice will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners consider that whilst they could offer advice to prevent this situation arising again, this would also not be sufficient to mark the seriousness with which they viewed the social worker's conduct and would not be sufficient to protect public confidence.

The case examiners went on to consider a warning order, which would provide a clearer expression of disapproval of the social worker's conduct. The case examiners conclude that a warning order is the most appropriate and proportionate outcome in

this case and represents the minimum sanction necessary to adequately address the public's confidence in the profession, and to maintain professional standards.

In reaching this conclusion, the case examiners considered that they had found a low risk of repetition, and that the social worker had shown some positive insight and remediation. To test their decision on sanction, the case examiners also went on to consider whether a conditions of practice or a suspension order may be more appropriate.

Given the low risk of repetition identified, they did not consider that this was a case requiring restrictions on practice. They also considered that any practical conditions of practice would be wholly unworkable.

In the absence of suitable conditions of practice, the case examiners considered whether suspension would be proportionate in the circumstances of this case. The case examiners consider the seriousness of the circumstances to potentially warrant a suspension order. The case examiners take an exceptionally dim view of the social worker's conduct. However, given the isolated nature of the concerns in this case and the fact that the social worker pro-actively and quickly reported the matter to their employer, the case examiners consider that it would be appropriate to step back down from a suspension order to a warning order.

In reverting back to a warning order as the most appropriate outcome, the case examiners therefore moved on to consider the length of the warning order proposed. Warning orders can be imposed for one, three or five years.

A one-year warning order is appropriate for an isolated incident of relatively low seriousness. Given that the incident was of relatively high seriousness, one year in duration is not likely to be appropriate.

A three-year warning order is more appropriate for more serious concerns. However, the case examiners consider that the level of seriousness is at the upper end of threshold. Therefore, a three-year order would be unlikely to satisfy public confidence that adequate standards of practice be maintained.

A five-year warning order is appropriate for serious cases that have fallen only marginally short of requiring restriction of practice. The case examiners have already decided that conditions of practice are unworkable, and that a suspension order could have been a proportionate outcome, but not necessary in the specific circumstances of this case. Therefore, they consider that a five-year warning order would reflect and represent the appropriate level of seriousness, which is at the

upper end of the continuum. This would also reinforce that the social worker should ensure there is no risk of repetition throughout this extended period.

The case examiners have therefore decided to propose to the social worker a warning order of five years 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 represented a significant breach of professional standards and had the potential to place a service user at risk of harm. Asking to kiss a service user is never acceptable in any circumstances, whatever the mitigating context. You are strongly advised to reflect on the importance of professional boundaries with all service users.

The case examiners warn that, as a social worker, you are required to adhere to the following professional standards:

I will:

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.

2.2 Respect and maintain people's dignity and privacy.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

4.8 Reflect on my own values and challenge the impact they have on my practice.

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.

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

Response from the social worker

The case examiners have had sight of an accepted disposal response form sent by the social worker on 03 May 2025. The social worker states that they have read the case examiners' decision and the accepted disposal guide. They admit the key facts set out in the case examiner decision and accept that their fitness to practise is impaired. They understand the terms of the proposed disposal of their fitness to practise case and accept them in full.

Case examiners' response and final decision

In review of the social worker's response, the case examiners agree that the accepted disposal of a five-year warning order is appropriate outcome in the circumstances of this case. The case examiners remain satisfied that this is the appropriate outcome in this case, and that a referral to a hearing in the public interest remains to be unnecessary in the circumstances.