

Case Examiner Decision
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FTPS-21119

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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	19 December 2023
	Accepted disposal proposed - warning order (3 years)
Final outcome	25 January 2024
	Accepted disposal - warning order (3 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.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds 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 have requested that the social worker be notified of their intention to resolve the case with a warning order of three years, subject to the social worker's agreement. The social worker subsequently notified Social Work England that they accepted the proposed disposal, and having reviewed the public interest in relation to

this case, the case examiners determined that a warning order of three years' duration remained the most appropriate outcome.

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 [REDACTED] will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

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.

Person A	The person subject to the social worker's alleged actions leading to the regulatory concern/receiving a police caution.
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The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer.
Date the complaint was received	9 September 2022
Complaint summary	The social worker's former employer subsequently advised that the social worker had been issued with an adult caution for harassment.

Regulatory concerns

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

- 1. On or around 18 November 2022 you accepted an Adult Caution for harassment without violence, contrary to section 2(1) and (2) of the Protection from Harassment Act 1997.**

The matter outlined in regulatory concerns 1 amounts 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	☐

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 the concern could amount to the statutory grounds 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 or around 18 November 2022 you accepted an Adult Caution for harassment without violence, contrary to section 2(1) and (2) of the Protection from Harassment Act 1997.**

The case examiners have had sight of a police 'certificate of caution', issued to the social worker for an offence of 'harassment without violence' contrary to section 2(1) and (2) of the Protection from Harassment Act 1997.

While the certificate of caution appears undated, the case examiners have also seen a police investigation overview report, recording a case disposal date of 18 November 2022.

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

Grounds

The case examiners have had sight of documentation, which appears to confirm that the social worker received and accepted a police caution for an offence of harassment without violence contrary to section 2(1) and (2) of the Protection from Harassment Act 1997, which the case examiners understand to be a criminal offence.

Accordingly, the case examiners are satisfied that there is a realistic prospect that adjudicators would find the ground of a conviction or caution in the United Kingdom for a criminal offence 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 are of the view that while having a police caution for an offence of harassment is serious, the underlying conduct that led to the caution can be remedied, for example through evidence from the social worker that they understand what led them to act as they did, and how they will ensure that they do not act in that way in future.

In the circumstances of this case, the case examiners note that the alleged actions by the social worker, while raising concerns about the social worker's judgment, occurred in their private life and appear unconnected to their role as a social worker. There is information to indicate that these alleged actions were considered by their

employer/work colleagues to be “out of character” and that, prior to these events, which occurred over a period of just over one week, the social worker was considered to have been “*a really good social worker*”.

The case examiners also note from the information provided to them, that the social worker has not been barred by the Disclosure and Barring Service from working with adults or children.

Insight and remediation

The case examiners consider that the social worker has demonstrated some insight. The social worker has recognised in their submissions that their actions could impact on public confidence, and states that it is for this reason that they chose to leave the social work profession permanently, and that they did so immediately after their arrest. They consider that the implication of their actions mean that “*it is no longer possible for (them) to practise*”.

The social worker advises that they were not acting “*rationality*” with regards to their behaviour at the time, however, this behaviour was limited towards Person A, and did not impact on their work. The social worker has also put forward mitigation with regards to their health and personal challenges at the time of the actions which resulted in them receiving a police caution. In addition, they cite work-related stress as a result of a high case load and completing work “*most evenings and weekends*”.

“To sum up, I have found the last 18 months extremely challenging, I made a very big mistake and cannot express enough my remorse. If I could turn back time ... even knowing (Person A) would never happen nor would I ever behave in such a senseless way again in terms of the arrest”.

The social worker has also expressed considerable remorse for their actions, and indicates that as result of both the pressures of social work and their actions resulting in concern 1, they no longer feel able “*to deal with the high demands of the profession*”.

For insight to be considered complete, however, the case examiners require further information and reflection from the social worker to provide reassurance that they also recognise the adverse impact their alleged conduct had on Person A, and not just on themselves and the reputation of the profession. The accounts provided by the social worker with regards to their actions towards Person A do not wholly align with the statement provided by Person A to the police, and with the evidence, including phone evidence, referred to by the police within their investigation report. In addition, the social worker has not outlined what steps they have taken to ensure that they do not again find themselves in a situation in their personal life, where they could behave in a similar way.

The case examiners do, however, note that the social worker does appear to have ceased their actions towards Person A immediately following their arrest, and there is no information to indicate any repeat of the behaviours that resulted in them receiving a police caution.

Risk of repetition

The case examiners consider the social worker to have shown some insight, and their remediation has included voluntarily removing themselves from social work practice. However, while the case examiners do not consider there to be high risk of repetition, without evidence that the social worker recognises the adverse impact of their actions on Person A, and has demonstrated steps taken to prevent a repeat of their actions should similar circumstances arise in future, the case examiners conclude that some risk of repetition remains.

Public element

The case examiners have next considered whether the social worker's alleged 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 are satisfied that a member of the public, fully informed of the facts of this case, would be concerned if it was found proven that the social worker had acted in such a way that resulted in them receiving a police caution for harassment in their private life, and was not considered to have subsequently demonstrated full insight and remediation. The case examiners are of the view that this would adversely impact on public confidence in the profession and that the public would expect a finding of impairment and an appropriate sanction.

The case examiners have therefore concluded that there is realistic prospect of adjudicators finding the social worker's fitness to practise to be 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:

- There is no conflict in the evidence in this case and the social worker accepts the key facts.
- The social worker's submissions indicate that they accept that their fitness to practise is currently impaired.
- The case examiners are of the view that while some risk of repetition may remain, any future risk can be managed through other sanctions available to them.
- 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	3 years	

Reasoning

In considering the appropriate outcome in this case, case examiners have had regard to Social Work England's Sanctions Guidance 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. 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 first considered taking no further action, but are of the view that this is not appropriate in a case where a social worker had acted in a way that resulted in them receiving a police caution for harassment, and does not appear to have shown full insight and remediation, indicating a potential future risk of repetition. Taking no further action would not provide the necessary level of public protection and would not satisfy the wider public interest.

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. Case examiners decided that issuing advice is not sufficient to mark the seriousness with which the regulator views the social worker's alleged conduct, or satisfy the public interest in a case where there was evidence of emotional harm caused to a member of the public, and the social worker is not considered to have fully remediated.

The case examiners next considered issuing a warning order. The case examiners note that in circumstances where they have determined that there is some risk of repetition, the guidance suggests that a restriction to the social worker's practice is required. While a warning will not restrict the social worker's practice, the case examiners note the alleged conduct occurred in the social worker's personal life, and appears to have been out of character. The social worker, who is experienced, was considered a good social worker by their employer, and has had an otherwise unblemished career.

Further, the social worker has demonstrated considerable remorse and some insight and remediation, which the case examiners consider the social worker can continue to build on, if they did choose to return to a social work role. The case examiners are satisfied that whilst they have concluded that some future risk of repetition does remain, they do not consider that risk to be high, and in all the circumstances of this case, they are satisfied that a warning order, which serves as a clear expression of disapproval of the social worker's conduct, is the most appropriate and proportionate response, and is the minimum necessary to protect the public and the wider public interest. A warning order will also be a signal that any repetition will be 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 (2022) 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 are of the view that the alleged conduct would not be considered of 'low seriousness'. They note that whilst the social worker has demonstrated some insight and remediation, this is not considered to be complete. In line with the sanction's guidance, the case examiners, therefore, consider that a warning order of three years is more appropriate as this will allow the social worker more time to develop further insight and address any remaining risk of repetition. Further, it marks the seriousness of the conduct in this instance. The case examiners consider that a period of three years is appropriate in these circumstances and is the minimum necessary 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. The case examiners considered that a five year duration would be disproportionate in all the circumstances of this case, and hence would be unnecessarily punitive.

The case examiners did go on to consider whether the next two sanctions, conditions of practice and suspension, were more appropriate in this case. Whilst the case examiners

identified that some risk of repetition remains, they do not consider that oversight by the regulator in this instance is required, for the reasons already outlined above. The examiners also consider that suspension from the register would be a disproportionate and punitive outcome. The social worker has expressed considerable regret for their actions, which, while serious, appear to have been put of character and took place over a relatively short period of time (around one week), and the social worker has had an otherwise unblemished career. While the social worker has indicated that they do not intend to return to practise, the case examiners are of the view that this should remain an option for a social worker who the evidence indicates was otherwise considered a good social worker by their previous employer.

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

An allegation of accepting an adult caution for harassment without violence, contrary to section 2(1) and (2) of the Protection from Harassment Act 1997 is serious. The matters as alleged had the potential to cause emotional harm to a member of the public and to impact adversely on the public's confidence in the social work profession.

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.

The case examiners warn that as a social worker, you must display behaviour which does not fall short of the professional standards. The case examiners remind the social worker of the Social Work England professional standards (2019), and particularly:

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 whilst at work, or outside of work.

This warning will remain published for three years.

Response from the social worker

On the 23 January 2024, in communications with Social Work England, the social worker confirmed that they had read all of the information sent to them (the case examiners' decision and the accepted disposal guide), and understood, agreed and accepted the proposed disposal of a warning order of three year's duration.

Case examiners' response and final decision

In light of the social worker's acceptance of the proposal, 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.

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning order of three year's duration remains 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, they remain of the view that an accepted disposal of a warning order of three year's duration is a fair and proportionate disposal, and is the minimum necessary to protect the public and the wider public interest.