

Case Examiner Decision
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FTPS-20984

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.....	9
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	11 January 2024
	Accepted disposal proposed - removal order
Final outcome	13 February 2024
	Accepted disposal - removal order

Executive summary

The case examiners are satisfied that there is a realistic prospect that:

- The factual concerns could be found proven by the adjudicators;
- Regulatory concern 1 could amount to the statutory ground of a conviction or caution in the United Kingdom of a criminal offence;
- Regulatory concern 2 could amount to the statutory ground of misconduct;
- The adjudicators could conclude 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 an accepted disposal removal order, subject to the social worker's agreement.

As such, the case examiners notified the social worker of their intention to resolve the case with the sanction of a removal order. The proposed disposal was accepted by the social worker on 12 February 2023.

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

The complaint and our regulatory concerns

The initial complaint	
The complainant	The complaint was raised by the social worker's former employer, West Sussex County Council (thereafter referred to as the 'council')
Date the complaint was received	05 July 2022
Complaint summary	The council referred the social worker following notification from the police that the social worker had been arrested for stealing money from an elderly service user (adult 1) during a social care assessment. The social worker was subsequently convicted at court for theft of monies.

Regulatory concerns
(As amended by the case examiners) Whilst registered as a social worker: 1. On or around 4 April 2023, you were convicted of theft. 2. Your actions in respect of (1) were dishonest. The matters outlined in regulatory concern (1) above amount to the statutory ground of conviction or caution in the United Kingdom for a criminal offence. The matters outlined in regulatory concern (2) above amounts to the statutory ground of misconduct. Your fitness to practise is impaired by reason of a conviction or caution in the United Kingdom for a criminal offence and/or 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	☐

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

Grounds of impairment (as presented to the case examiners) - *The matters outlined in regulatory concern (1) amount to the statutory ground of caution and/or conviction in the UK.*

The case examiners have amended the wording of the grounds of impairment to accurately reflect the Social Workers Regulations 2018. This is as follows:

Grounds of impairment- **The matters outlined in regulatory concern (1) amount to the statutory ground of 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 and/or misconduct.

The case examiners are satisfied that the amendments they have made are minor and do not prejudice the social worker; they therefore consider it to be unnecessary and

disproportionate to delay consideration of the case further by seeking additional submissions from the social worker.

The case examiners will refer to the amended concern throughout the decision.

The realistic prospect test

Fitness to practise history

The case examiners have been informed that there is no previous fitness to practise history.

Decision summary

Is there a realistic prospect of the adjudicators finding the social worker's fitness to practise is impaired?

Yes ☒

No ☐

The case examiners have determined that there is a realistic prospect of regulatory concerns 1 and 2 being found proven, that those concerns could amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence and the grounds of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker:

1. *On or around 4 April 2023, you were convicted of theft.*

The social worker was arrested for theft from the home of an elderly service user (adult 1), who they had visited for the purposes of undertaking a social care assessment on 24 June 2022. The incident was captured on CCTV video installed in the property, and which was at the material time being viewed live by a former neighbour of adult 1. The social worker was observed to remove a bundle of banknotes and to hide them behind their back, before folding and concealing them about her person. The social worker was subsequently challenged by the former neighbour who attended the address and stopped the social worker as they were driving away. Evidence presented to the police indicates that the social

worker apologised to the former neighbour for their actions and returned £440 in bank notes and work-related paperwork, before leaving the scene.

The case examiners have had sight of police documentation including a court extract, dated 17 May 2023, where the social worker pleaded guilty to the offence of the theft. The social worker received the following conviction:

- Community order until 16 May 2024
- Cost £85
- Unpaid work requirement 60 hours within 12 months
- Rehabilitation activity requirement

As such, the case examiners consider there is a realistic prospect of adjudicators finding concern 1 proven.

2. Your actions in respect of (1) were dishonest.

When considering dishonesty, the case examiners have applied two tests, in line with relevant case law. Firstly, they have assessed the evidence to establish what adjudicators may determine the social worker's actual state of knowledge or belief was at the relevant time (the subjective test). Secondly, they have considered whether the social worker's conduct could be deemed as dishonest by the standards of ordinary, decent people (the objective test).

With regard to the subjective test, the case examiners are aware that a conviction of theft in law inherently indicates a dishonest act. Specifically in relation to this case, the case examiners have had sight of CCTV evidence, which shows the social worker appearing to take a bundle of banknotes from a table and hiding it behind their back, before then folding and concealing them about her person. They have also been presented with evidence indicating that, when challenged by the former neighbour, the social worker apologised for their actions and said that they were embarrassed, and handed over £440 in cash from the side compartment of the driver door.

The case examiners have also noted the account provided by the social worker during their employer's investigation, where they indicate that they accidentally left the premises with the money, having picked it up and placed it in their notebook with the intention of using it to remind them to discuss financial matters with adult 1, before being distracted by other events. The case examiners are of the view that these accounts provided by the social worker are at odds with the CCTV and witness evidence, which instead indicate careful

concealment of the money about the social worker's person, rather than being placed in a notebook, and an apology when challenged.

The case examiners are satisfied that there is cogent evidence to indicate that the social worker purposefully took the money from adult 1, a vulnerable and elderly service user, without their knowledge, and that the social worker's actions were knowingly dishonest, rather than an innocent mistake.

When considering the objective test, the case examiners are of the view that ordinary decent members of the public would consider a social worker knowingly taking cash from a vulnerable service user in the circumstances described would amount to dishonesty.

As such, the case examiners consider there is a realistic prospect of adjudicators finding concern 2 proven.

Grounds

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

As outlined at the facts stage for regulatory concern 1, the case examiners have had sight of documentation indicating that the social worker has received a criminal conviction for theft.

Accordingly, there is a realistic prospect that adjudicators would find the grounds of a conviction or caution in the United Kingdom for a criminal offence proven.

Misconduct

In relation to the ground for regulatory concern 2, the case examiners are aware that misconduct is generally considered to consist of serious acts or omissions, which suggest a significant departure from what would be expected of the social worker in the circumstances. This can include conduct that takes place in the exercise of professional practice, and also conduct which occurs outside the exercise of professional practice, but calls into question the suitability of the person to work as a social worker.

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following standards, which were applicable at the time of the concerns.

As a social worker, I will:

2.1 Be open, honest, reliable and fair.

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

6.6 Declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal proceedings or a regulatory finding is made against me, anywhere in the world.

As a social worker, I will not:

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others

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.

5.4 Ask for, or accept any money, gifts or hospitality which may affect or appear to affect my professional judgement.

The case examiners are aware that falling short of the standards may not always amount to misconduct, but they consider that adjudicators in this instance may determine that the threshold for misconduct has been reached. Where the concerns relate to alleged dishonest actions by a social worker, particularly while acting in a position of trust and towards an elderly and vulnerable service user as in this case, adjudicators are likely to view this as extremely serious. Such actions do not align with the professional standards of conduct expected by a registered social worker.

Social workers are routinely trusted with access to private spaces and as in this case, entrusted to support with financial matters. Social workers are relied on to act with honesty and integrity when making important decisions about service users, their relatives and carers. If the matters were to be found proven by adjudicators, the case examiners conclude the conduct described is likely to suggest a significant departure from the professional standards detailed above.

Accordingly, the case examiners are satisfied there is a realistic prospect of adjudicators finding concern 2 to amount to the statutory ground of misconduct.

Impairment

Personal element

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 easily remediable; whether the social worker has undergone remediation and demonstrated insight; and whether there is a high likelihood the matters alleged will be repeated.

Whether the conduct can be easily remedied

Cases involving dishonesty and breaches of trust, can be difficult to remediate as they relate to a social worker's character; however, the case examiners are aware that every case must be treated on its own merits and that a finding of dishonesty need not inexorably lead to a finding of impaired fitness to practise.

Insight and remediation

With regards to this case, the case examiners note that after the theft, as subsequently admitted by the social worker in criminal proceedings, the social worker, in interviews with their employer and the police, initially denied having intentionally taken the money from adult 1, instead providing an account of having removed the money from the premises in error. The information provided to them in evidence suggests to the case examiners that without the compelling CCTV evidence, the social worker's dishonest actions may not have come to light, or that the social worker may have continued to deny their actions.

The social worker has not provided submissions but has made comments within an email stating that they don't know *"why it happened, what led me to do what I did"*, and that they *"should have known better"*. They report feeling *"guilt, shame and embarrassment"* that they will have to live with for the rest of their life and apologise to the family concerned and *"hope they find it their heart to forgive me."*

While the social worker has demonstrated remorse, the case examiners have not been presented with evidence of insight or remediation. In the opinion of the case examiners, the social worker has not indicated an understanding of how their actions represent a significant breach of the standards expected of social workers, or why they acted as they did. Further, the social worker has not indicated that they understand the adverse implications of their actions on a vulnerable and elderly service user, public confidence in the profession and on maintaining professional standards, or what steps they have taken to ensure that such action would not be repeated in future.

Risk of repetition

The CCTV evidence presented to the case examiners is compelling; it shows the social worker unhesitatingly removing a bundle of money while stood directly in front of, and while speaking with an elderly and vulnerable service user. In light of what the case examiners consider to be an egregious act by the social worker, and in the absence of insight and remediation, the case examiners consider the risk of repetition to be high.

Public element

The case examiners next considered whether the social worker's actions have the potential to undermine public confidence in social workers and whether this is a case where

adjudicators may determine that the public interest requires a finding of impairment. Public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public's trust and confidence in the profession.

The case examiners have reminded themselves that the public interest includes responding proportionately to regulatory concerns. They note from their guidance that concerns involving dishonesty are *"likely to be viewed particularly seriously given the access social workers have to people's homes and lives"*; and that *"it is essential to the effective delivery of social work that the public can trust social workers implicitly"*.

With regards to this case, the evidence presented to the case examiners indicates that adult 1 was particularly vulnerable, and concerns had previously been recorded by social services that he was at risk of financial exploitation by people outside of the family. The social worker was meant to be ensuring that adult 1 was safeguarded, with the purpose of the visit being to establish views in relation to the provision of a care support package; adult 1 had previously resisted the intervention of social services. The case examiners consider that a fully informed member of the public would be very concerned by the alleged conduct in this case, which involves a clear abuse of trust, and has led to a criminal conviction for theft.

In the case examiners' view, a finding of impairment is required to maintain public confidence in both the social work profession, and in the regulator's maintenance of proper standards for social workers.

Accordingly, the case examiners are satisfied that there is a realistic prospect of 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 carefully 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 has not disputed the facts; while they have not provided submissions, the social worker pleaded guilty to the criminal conviction for theft.
- While the social worker has not indicated directly whether they accept that their conduct is impaired, they have stated that they do not consider themselves *“deserving to be a registered social worker in England or any other country for that matter”*. The accepted disposal process will provide the social worker with the opportunity to review the case examiners reasoning on impairment and reflect on whether they do accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the 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, particularly in light of the fact the social worker has already been convicted in a criminal court for theft. Furthermore, the publication of an accepted disposal decision will provide 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

The social worker is already subject to an interim suspension order which relates to the concerns that are the subject of this report.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒
Proposed duration	Where a social worker is removed from the register, there is no defined end to the finding of impairment. A social worker that has been removed from the register may only apply to be restored to the register 5 years after the date the removal order took effect. The adjudicators will decide whether to restore a person to the register.	

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 consider a sanction, the case examiners have considered mitigating and aggravating factors in this case: Mitigating • The social worker has not disputed the relevant facts and has expressed remorse for their alleged conduct. • The social worker has no previous adverse fitness to practise history Aggravating

- The social worker has not demonstrated insight or remediation into the alleged conduct, and the risk of repetition is considered high.

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

No further action, advice or warning:

With reference to the regulator's sanctions guidance (December 2022), the case examiners noted that in cases where a risk of repetition remains, the outcomes of no further action, advice or warning are unlikely to be appropriate as they will not restrict the social worker's practice. Whilst the guidance advises that these outcomes may be considered where there are mitigating factors, the case examiners are satisfied that in this case, which includes allegations of dishonesty and an abuse of trust, such outcomes remain inappropriate.

Conditions of practice order:

The case examiners next considered a conditions of practice order. The case examiners considered paragraph 114 of the guidance which states:

Conditions of practice may be appropriate in cases where (all of the following):

- the social worker has demonstrated insight.
- the failure or deficiency in practice is capable of being remedied.
- appropriate, proportionate, and workable conditions can be put in place.
- decision makers are confident the social worker can and will comply with the conditions.
- the social worker does not pose a risk of harm to the public by being in restricted practice.

The case examiners are of the view that the social worker has not demonstrated insight or remediation, and consider that the public interest in this case requires a more serious sanction, so that public confidence could be maintained.

Suspension order:

The case examiners went on to consider whether a suspension order might be an appropriate sanction.

The case examiners have considered the guidance, which states:

Suspension may be appropriate where (all of the following):

- the concerns represent a serious breach of the professional standards.
- the social worker has demonstrated some insight.
- there is evidence to suggest the social worker is willing and able to resolve or remediate their failings.

The case examiners do not consider that, in the circumstances of this case, a suspension order is appropriate or would maintain public confidence. The concerns represent a serious breach of the professional standards, and the case examiners consider that the social worker has not shown insight or indicated that they have, or would be willing, to remediate.

Removal order:

The case examiners therefore went on to consider whether a removal order may be the only outcome sufficient to protect the public, maintain confidence in the profession, and maintain proper professional standards for social workers in England. The case examiners consider that in light of the social worker's alleged actions, which include a criminal conviction for the theft of money from a vulnerable service user, there is no other outcome available to them that would provide the level of assurance needed in respect of these three criteria. The case examiners are of the view, considering all the circumstances of this case, that a removal order is the only sanction available that will safeguard public confidence.

To conclude, the case examiners have decided to propose to the social worker a removal order. 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 28 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.

Response from the social worker

The case was returned to the case examiners on 13 February 2024.

The case examiners have had sight of the social worker's completed response form dated 12 February 2024. The social worker has signed to confirm they have read the case examiners' decision and the accepted disposal guide, and that they understand the terms of the proposed disposal (removal order) and accept them in full.

Case examiners' response and final decision

The case examiners note that the social worker has accepted the proposed disposal as outlined by them. The case examiners then proceeded to further consider whether the proposed disposal of a removal order remains the most appropriate means of disposal for these matters.

The case examiners have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e., the protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. The case examiners are of the view they have not been presented with any new evidence that might change their previous assessment. The case examiners remain satisfied that an accepted disposal by way of a removal order is the minimum necessary to protect the public and the wider public interest.

The case examiners note that there is an interim order currently in effect, which will be revoked upon the enactment of any agreed order.