

Case Examiner Decision
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FTPS-22722

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The role of the case examiners

The case examiners perform a filtering function in the fitness to practise process, and their primary role is to determine whether the case ought to be considered by adjudicators at a formal hearing. The wider purpose of the fitness to practise process is not to discipline the social worker for past conduct, but rather to consider whether the social worker's current fitness to practise might be impaired because of the issues highlighted. In reaching their decisions, case examiners are mindful that Social Work England's primary objective is to protect the public.

Case examiners apply the 'realistic prospect' test. As part of their role, the case examiners will consider whether there is a realistic prospect:

- the facts alleged could be found proven by adjudicators
- adjudicators could find that one of the statutory grounds for impairment is engaged
- adjudicators could find the social worker's fitness to practise is currently impaired

If the case examiners find a realistic prospect of impairment, they consider whether there is a public interest in referring the case to a hearing. If there is no public interest in a hearing, the case examiners can propose an outcome to the social worker. We call this accepted disposal and a case can only be resolved in this way if the social worker agrees with the case examiners' proposal.

Case examiners review cases on the papers only. The case examiners are limited, in that, they are unable to hear and test live evidence, and therefore they are unable to make findings of fact.

Decision summary

Decision summary	
Preliminary outcome	12 April 2024
	Accepted disposal proposed - removal order
Final outcome	17 May 2024
	Accepted disposal – removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1b, 1c, 1d, 3, 4, and 5 being found proven by the adjudicators.

3. There is a realistic prospect of regulatory concerns 1b, 1c, 1d, 3, 4, and 5 being found to amount to the statutory grounds of misconduct.
4. For regulatory concerns 1b, 1c, 1d, 3, 4, and 5 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 they 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 by way of a removal order.

The social worker agreed to this proposal and the case examiners have concluded the case by way of accepted disposal.

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 **blue** will be redacted only from the 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.

In accordance with Social Work England's Fitness to Practise 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.

[Redacted]

[Redacted]

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, Shropshire County Council
Date the complaint was received	06 October 2023
Complaint summary	The initial complainant alleged that the social worker failed to maintain professional boundaries and stored service user information on a personal mobile phone without any reason to do so. However, during the course of the allegations being investigated, it was also alleged that the social worker acted dishonestly in relation to an application to be removed from the social work register. The specific issues raised by the complainant are captured in the regulatory concern section.

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. You failed to maintain professional boundaries with a service user – Person A, including in the following ways:



- b) Sending WhatsApp messages to Person A between June 2021 to November 2022 after your professional involvement had ended.

- c) Sending emails to Person A in July and November 2021 after your professional involvement had ended.
- d) Visiting or attempting to visit service users after your professional involvement had ended including Person A in November 2021.



- 3. You stored service user telephone numbers including Person A's, on your personal mobile phone without any professional reason to do so.
- 4. On 4 October 2023, you applied for voluntary removal from the social work register declaring that you were unaware of any current allegation, investigation proceedings, or order which may result in action being taken against you, despite being subject to disciplinary procedures by your employer in respect of the allegations at (1) and (3).
- 5. The conduct at (4) was dishonest.

The matters outlined in regulatory concern 1, 2, 3, 4 and 5 amounts to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of 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

FTP-24112

The case examiners have been informed that between 06 and 08 September 2010, a Conduct Committee of the General Social Care Council (GSCC) imposed an 'admonishment' of 3 years duration.

The case examiners are informed that the admonishment was imposed in relation to professional boundaries.

The case examiners are satisfied, with reference to the regulations and fitness to practise rules, that this history may be considered to be adverse.

They have therefore considered whether it would be fair and reasonable to take it into consideration.

Having done so, the case examiners have determined it is fair and reasonable to do so, at this stage, for the following reasons:

- Although the concerns addressed by the GSCC were raised in 2008, they are in relation to professional boundaries, and therefore directly relate to the regulatory concerns in this case.
- The regulatory concerns relating to professional boundaries and addressed by the GSCC were considered to be sufficiently serious to result in an admonishment.

The case examiners will therefore give consideration to this history as part of their assessment of current impairment, and not before.

FTP-32330

The case examiners have been informed that on 19 March 2014, an Investigating Committee Panel of the Health and Care Professions Council (HCPC) found there was 'no case to answer' in relation to the social worker allegedly sending inappropriate text messages of a sexual nature to a foster carer.

However, the committee also issued 'learning points' to the social worker in respect of keeping their personal and professional life separate, "particularly when sending SMS messages and the potential consequences if they are sent to the wrong recipient".

The case examiners are mindful that with reference to the regulations and fitness to practise rules, the HCPC decision did not result in an 'adverse outcome'. However, the case examiners have noted the 'impact of advice...' in their own guidance (paragraph 168), which states that "we can consider advice and warnings a social worker has received if further fitness to practise concerns are raised about them (and if the concerns are similar in nature)."

Taking into account their own guidance, the case examiners have therefore considered whether it would be fair and reasonable to take the HCPC decision into consideration.

Having done so, the case examiners have determined it is fair and reasonable to do so, at this stage, for the following reasons:

- Although the concerns addressed by the HCPC did not result in an 'adverse outcome', 'learning points' were issued to the social worker.
- The learning points issued by the HCPC directly relate to the regulatory concerns in this case.
- The learning points identified by the HCPC are relevant to the issue of impairment, specifically, in relation to the risk of repetition.

The case examiners will therefore give consideration to this history as part of their assessment of current impairment, and not before.

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 no realistic prospect of regulatory concerns 1a and 2 being found proven. However, they have determined that there is a realistic prospect of regulatory concerns 1b, 1c, 1d, 3, 4, and 5 being found proven, that those concerns could amount to the statutory grounds of misconduct and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Regulatory concern 1

The case examiners are satisfied there is evidence to support the allegations that the social worker:

1. Failed to maintain professional boundaries with a service user – Person A, including in the following ways:
 - b) Sending WhatsApp messages to Person A between June 2021 to November 2022 after your professional involvement had ended.
 - c) Sending emails to Person A in July and November 2021 after your professional involvement had ended.
 - d) Visiting or attempting to visit service users after your professional involvement had ended including Person A in November 2021.

Regulatory concern 1b

- The case examiners have had sight of a witness statement, in which the social worker's team manager stated that the team ceased involvement with the Person A on 08 June 2021. The case examiners have also had sight of an email from the social worker's service manager, who stated that according to case records, the social worker's last visit to Person A was on 04 March 2021.
- The investigation report that refers to an interview with Person A, states that Person A alleged that the social worker sent them "maybe 10" WhatsApp messages after the social worker's professional involvement had ceased. A 'call note' from Person A's stepparent states that they (the stepparent) saw the WhatsApp messages.
- The case examiners have had sight of a witness statement (dated 05 April 2023), in which the social worker states they could "not recall" sending WhatsApp messages to Person A. However, in a subsequent witness statement (dated 11 May 2023), the social worker acknowledges that they did send a WhatsApp message to Person A, asking them if they wanted to go out for a drink. The social worker adds that "it [the message] went to the wrong person".

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Regulatory concern 1c

- The case examiners have had sight of a witness statement in which Person A states they received emails from the social worker after the social worker's professional involvement had ended. Moreover, the case examiners have had sight of emails sent from the social worker's work email address to Person A. These were sent in July 2021 and November 2021 – several months after the social worker's involvement with Person A ended.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Regulatory concern 1d

- The case examiners have had sight of an email sent from the social worker's work email address to Person A indicating that the social worker had called at Person A's home address in November 2021 - several months after the social worker's involvement with Person A ended.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.



Regulatory concern 3

The case examiners are satisfied there is evidence to support the allegation that the social worker stored service user telephone numbers including Person A's, on their personal mobile phone without any professional reason to do so. Specifically, the case examiners note that:

- They have had sight of a witness statement in which the social worker admits they stored phone numbers for people they were working with on their personal mobile phone.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Regulatory concern 4

The case examiners are satisfied there is evidence to support the allegation that on 04 October 2023, the social worker applied for voluntary removal from the social work register declaring that they were unaware of "any current allegation, investigation proceedings, or order which may result in action being taken against you", despite being

subject to disciplinary procedures by their employer in respect of the allegations at (1) and (3). Specifically, the case examiners note that:

- The case examiners have had sight of a letter from the social worker's former employer, dated 26 January 2023, in which the social worker was informed of an investigation under the disciplinary procedure. Furthermore, a letter sent to the social worker (dated 03 October 2023) confirmed that they had been dismissed, and the social confirmed receipt of the letter on 04 October 2023. However, the case examiners have also been provided with a copy of an application for voluntary removal, made by the social worker on the same date (04 October 2023). On the application form, a box which states "I am unaware of any current allegation, investigation, proceedings, or order which may result in action being taken against me", has been ticked by the social worker.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Regulatory concern 5

The case examiners are satisfied there is evidence to support the allegation that the social worker's conduct in relation to regulatory concern 4 was dishonest.

When considering dishonesty, the case examiners have applied two tests. Firstly, they have assessed the evidence to see if there is anything that may demonstrate any belief held by the social worker as to whether they were being dishonest. This is called a subjective test. In this instance, the social worker has not responded to the allegation that their conduct was dishonest.

The case examiners next considered whether the conduct is likely to be deemed dishonest by applying the objective standards of ordinary decent people. This is called an objective test. As stated above, the social worker applied for voluntary removal on 04 October 2023, indicating they were unaware of any current allegation, investigation, proceedings, or order which may result in action being taken against them. However, they were made aware in January 2023 of a disciplinary investigation against them; and they were made aware of the outcome of that investigation on the same date that they applied for voluntary removal.

The case examiners consider that an ordinary member of the public may consider the social worker's actions, as described above, to be dishonest as the social worker appeared to knowingly provide incorrect information to the regulator. As such the case examiners are satisfied there is evidence to support the allegation that the social worker's actions at regulatory concern 4 were dishonest.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

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 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.

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.

2.1 Be open, honest, reliable, and fair.

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

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

5.2 Not behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

Having considered the relevant standards, the case examiners have concluded that the social worker's alleged conduct could represent a significant departure, because the allegations indicate that the social worker did not recognise their power and authority as a social worker and the potential impact of that on service-users; they may have behaved dishonestly; and they did not maintain professional relationships.

In respect of the latter point, the case examiners note that the social worker's alleged conduct contributed to Person A feeling vulnerable due to their previous involvement with children's social care. Moreover, Person A stated that they did not access services because they were afraid of the social worker being allocated to their case. As such, the social worker's alleged conduct resulted in a parent and child not receiving valuable services, and therefore, being increasingly vulnerable.

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 satisfied that although the alleged conduct in this case is serious, the alleged conduct relating to professional boundaries could nevertheless be remedied, for example, via a demonstration of significant reflection and wider insight, along with engagement with relevant training. However, with regard to regulatory concern 5, the case examiners are mindful of their sanction guidance (paragraph 43), which states that dishonesty can be more difficult to remediate.

Insight and remediation

In this instance, the case examiners have not been provided with any evidence of insight or remediation.

Risk of repetition

The case examiners have concluded that the social worker has not demonstrated any insight, and they have not been provided with any evidence of remediation. Furthermore, when considering impairment, the case examiners have also taken into account the adverse history, (described above), including the learning points issued to the social worker, and they note that:

- In 2010, the social worker was 'admonished' for their conduct in respect of professional boundaries. However, the alleged conduct in this case also relates to professional boundaries. This suggests the social worker still fails to recognise the

importance of professional boundaries in keeping social workers, and the people they work with, safe.

- In 2014, the social worker was issued 'learning points' in respect of keeping their personal and professional life separate, "particularly when sending SMS messages and the potential consequences if they are sent to the wrong recipient". However, the alleged conduct in this case also relates to sending SMS messages and the potential consequences if they are sent to the wrong recipient. This suggests the social worker has not learned from their previous conduct.

Having concluded that the social worker has not demonstrated insight or remediation, and that the alleged conduct is repetitive in nature, the case examiners must further conclude that a risk of repetition remains.

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 have outlined their view that the alleged conduct in this case is serious, and that the regulatory concerns could amount to the statutory grounds of misconduct. As a result, the case examiners consider that adjudicators may find that public confidence would be undermined if a finding of impairment were not made.

Accordingly, there is a realistic prospect of adjudicators finding the social worker's fitness to practise to be currently 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

Case examiner guidance states that if the case examiners have found there is no public interest in the case being referred to a hearing, they may then consider whether an accepted disposal may be appropriate (paragraph 181). The guidance goes on to state that for a case to be concluded through accepted disposal, the social worker must accept the key facts and that their fitness to practise is currently impaired.

In this instance:

- There is no conflict in the evidence that requires resolving at a hearing.
- The social worker accepts the key facts.

Furthermore, the case examiners have concluded that:

- Although the public interest is engaged, and the concerns in this case are serious, the case examiners are satisfied that public confidence in the profession and the

professional standards for social workers can be upheld by the proposed outcome, and the decision being published on Social Work England's public register.

- The public would support efforts made by the case examiners to resolve this case in a timely and proportionate manner, without the need to refer to a hearing.

Consequently, the case examiners have determined that accepted disposal is the appropriate outcome in this case.

Interim order

The case examiners have been informed that:

- The social worker is subject to an interim suspension order (IO-881).
- The start date is 23 January 2024.
- The end date is 22 July 2025.
- The Interim Order 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. If a social worker does apply to be restored to the register, their application to be restored will be considered by adjudicators.	

Reasoning
The case examiners are satisfied there is a realistic prospect of regulatory concerns 1b, 1c, 1d, 3, 4, and 5 being found proven by adjudicators. Furthermore, they found a realistic prospect that the concerns, if proven, could amount to the statutory grounds of misconduct. The case examiners have also found a realistic prospect that adjudicators could find the social worker's fitness to practise is currently impaired. In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's Impairment and 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. 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.

No further action

The case examiners considered taking no further action. However, the case examiners considered that this would not be appropriate in this instance because they are not satisfied that a finding of impairment alone would protect the wider public interest. Furthermore, the case examiners have concluded there is a lack of insight and remediation.

Advice or Warning

The case examiners next considered whether offering advice or a warning would be sufficient. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners believe that issuing advice is not sufficient to mark the seriousness with which they view the alleged misconduct, and again it would not adequately protect the public.

A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order. However, the case examiners are not satisfied that a warning order would send a strong enough message to the social worker, and particularly, the wider social work profession. Furthermore, a warning order is not likely to be appropriate where there is a lack of insight and a risk of repetition, and again it would not adequately protect the public.

Conditions of practice

The case examiners then considered a conditions of practice order. The case examiners have concluded that a conditions of practice order is not suitable for this case, because the social worker is not currently practising, and they have stated that they have no intention of practising in the future. Therefore, there are unlikely to be workable conditions that could be formulated.

Suspension order

The case examiners then considered a suspension order, and they noted the sanctions guidance which indicates that such an order may be appropriate in cases where there has been a serious breach of the professional standards, the social worker has demonstrated some insight and there is evidence to suggest the social worker is willing and able to resolve or remediate. However, the case examiners are not satisfied that the social worker has demonstrated insight, and the evidence indicates the social worker does not wish to remediate, given they no longer wish to either remain in practice or retain their

registration as a social worker. Consequently, the case examiners have concluded that this case does not meet the requirements for a suspension order.

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 conduct, there is no other outcome available to them that would provide the level of assurance needed in respect of these 3 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 with the proposed outcome, 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 examiners were provided with an accepted disposal response form on 17 May 2024. The form includes confirmation it is the social worker's formal response, and a declaration as follows:

"I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full".

Case examiners' response and final decision

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

The case examiners therefore direct that the regulator enact a removal order.