

Case Examiner Decision
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FTPS-20868

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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	21 June 2024
	Accepted disposal proposed - warning order (3 years)
Final outcome	09 July 2024
	Accepted disposal – warning order (3 years)

Executive summary

The case examiners have reached the following conclusions:

- There is a realistic prospect of regulatory concerns ■, 3, and 4 being found proven by the adjudicators. [REDACTED]
2. There is a realistic prospect of regulatory concerns 3 and 4 being found to amount to the statutory grounds of misconduct. [REDACTED]
3. For regulatory concerns 3 and 4, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and determined that the case could be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker be notified of their intention to resolve the case with a warning order of 3 years.

The social worker accepted the case examiner's proposal and the terms in full on 09 July 2024.

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

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in blue will be redacted only from 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.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's current employer.
Date the complaint was received	08 July 2022
Complaint summary	The concerns raised by the social worker's employer followed the death of Adult A. The concerns relate to the social worker's professional conduct and are outlined in full in the regulatory concerns.

Regulatory concerns and concerns recommended for closure

While registered as a social worker and employed by Devon County Council;



Regulatory Concern 3

You did not exercise adequate management oversight of Adult A's case in that:

- i. You did not hold regular supervision with the allocated social worker,
- ii. You did not maintain adequate supervision notes from these supervisions,
- iii. You did not share supervision notes with the allocated social worker.
- iv. You did not take appropriate steps to address concerns with the allocated social worker's practise.

Regulatory Concern 4

You did not adequately manage risk in the case of Adult A in that:

- i. As above, you did not ensure adequate management oversight occurred in respect of Adult A's case,
- ii. You did not take timely action upon receipt of safeguarding enquiries, including that you did not respond adequately to 'cuckooing' concerns when these were raised,
- iii. You did not provide clear rationale for your safeguarding decisions,
- iv. You did not communicate adequately with stakeholders, including Adult A and other agencies.

Grounds of impairment:

Regulatory Concerns ■ 3 and 4 amount to the statutory grounds of misconduct and/or lack of competence or capability.

Your fitness to practise is impaired by reason of your misconduct/lack of competence or capability.



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 concerns 1, 3, and 4 being found proven, that regulatory concerns 3 and 4 could amount to the statutory grounds of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

While registered as a social worker and employed by Devon County Council;



Regulatory Concern 3

You did not exercise adequate management oversight of Adult A's case in that:

- i. You did not hold regular supervision with the allocated social worker,**
- ii. You did not maintain adequate supervision notes from these supervisions,**
- iii. You did not share supervision notes with the allocated social worker.**

The case examiners have been provided with the employer's 'supervision framework' document and also the employer's 'best practice principles for safeguarding supervision'. Both are provided by the employer as documents in place at the time of the concerns being raised.

Within the 'supervision framework' it states that '*supervision should generally take place on a monthly basis.*' The document also directs the reader to a record of supervision template which it states should be used.

The case examiners note that the 'best practice principles for safeguarding supervision' was published in October 2020. Within the document 'expected standards' are set out including:

- *Case supervision should be focussed on the adult and should result in clear agreement about who will not do what in relation to the person to safeguard and promote their welfare.*
- *A written record should be kept of each session in line with DCC Supervision Framework for Adult Social care – revised November 2018.*
- *Decisions relating to adults with care and support needs should be recorded (or cross referenced) on the supervisee's supervision records and on the case file or record within 24 hours of the decision being made. The way in which a 'think family' approach should be incorporated into supervision.*

The case examiners have been provided with supervision records produced by the social worker, held with the allocated social worker for Adult A. The records date from 20 January 2020 and cover the timeframe of the concerns.

Whilst the 'supervision framework' states that supervision should be held monthly, the case examiners have seen evidence which would suggest this was not always the case. Whilst there is evidence of some monthly supervision being held, there is evidence from the supervision records which shows a gap of five months between October 2020 and March 2021.

Furthermore, the case examiners note that Adult A is only documented as being discussed in four supervision records and that two of those records (14 April 2021 and 05 May 2021) were held after the death of Adult A, not adhering to the 'best practice principles for safeguarding supervision'.

Supervision records, as documented in the 'supervision framework' should have been completed on a standardised template, which is referred to in the policy document. Whilst the case examiners have seen some supervision records produced by the social worker completed using the template, there are some from 2020 which are written on note paper.

All the supervision documents presented to the case examiners are handwritten, making them difficult to read, and it is the case examiners view that case discussions do not appear to contain clear management oversight, agreed actions and timescales. This view is shared by the internal investigation and is documented in the disciplinary outcome letter issued by the social worker's employer.

The allocated social worker, within the internal investigation, stated that they were not provided with a copy of their supervision notes. The social worker, within the internal investigation stated that the allocated social worker had declined a copy of their supervision notes, but this is refuted by the allocated social worker.

Within their submissions to the regulator the social worker accepts that they did not share the supervision records with the allocated social worker.

The social worker, in their submissions, highlights a lack of training specific to supervision and this is verified by a statement from the social worker's line manager. However the social worker has provided details of two practitioners whom they manage and who have provided statements. The supervisees confirm adequate supervision from the social worker, held monthly and, on the whole, a record of the supervision is sent or they know how to access the record should it be required.

iv. You did not take appropriate steps to address concerns with the allocated social worker's practise.

The case examiners have noted, from the evidence available, that the social worker had raised issue with the allocated social worker's practice. The case examiners have had sight of email correspondence and the social worker's own supervision records with their line manager detailing concerns they had.

The case examiners have been provided with a copy of the employer's capability policy and procedure. Furthermore, they have noted information within the internal investigation detailing the employer's informal capability process.

The informal capability process, is recorded as the following advice for managers to follow:

- *Informal performance meeting*
- *Follow up meeting in writing to employee*
- *Formulate an Improvement Plan for the employee with targets for improvement*
- *Work towards targets set in Improvement Plan*
- *Manager and employee meet to review progress on the Improvement Plan*
- *The outcome of the review plan could be either to continue the Improvement Plan if there is evidence of improvement or consider referral to the formal capability process if there is no or insufficient evidence of improvement in performance.*

The case examiners note that the procedure flowchart from the employer's capability policy and procedure has the first managerial action set, after informal support, as writing to the employee requesting them to attend a capability meeting.

The case examiners have not been presented with any evidence of the social worker following either the informal or formal capability process, set out by the employer. Whilst there is reference in the allocated social worker's supervision records of incomplete tasks, there is no explicit outline of practice concerns or any action plan documented as to how they were to be addressed. Furthermore, the social worker has accepted that the supervision records were not shared with the allocated social worker, and as such, the case examiners cannot be satisfied that the allocated social worker considered them to be a true reflection of the discussion.

When considering regulatory concern 3 as a whole, the case examiners are satisfied that there is a realistic prospect of the regulatory concern being found proven by adjudicators.

Regulatory Concern 4

You did not adequately manage risk in the case of Adult A in that:

- i. As above, you did not ensure adequate management oversight occurred in respect of Adult A's case,**
- ii. You did not take timely action upon receipt of safeguarding enquiries, including that you did not respond adequately to 'cuckooing' concerns when these were raised,**
- iii. You did not provide clear rationale for your safeguarding decisions,**
- iv. You did not communicate adequately with stakeholders, including Adult A and other agencies.**

The case examiners have noted one entry made by the social worker on Adult A's case notes, which they have been provided, with regards to management oversight. This is dated 10 March 2021 and is a case review with the allocated social worker. It is documented that there were no active tasks and the case could close.

As previously highlighted, supervision records provided to the case examiners show Adult A is only documented as being discussed in four supervision records and two of those records are when Adult A is deceased. The case examiners consider the records, as discussed previously, did not contain clear management oversight, including clear rationale for decision-making pertaining to the safeguarding concerns.

The case examiners have noted the breadth of evidence which would suggest that the social worker did not adequately manage risk in the case of Adult A; they have been provided with records from Adult A's case file, an internal investigation and also a formal coroner's report, all of which raise issue that safeguarding enquiries were not actioned in a timely manner.

Whilst the case examiners note evidence of communication with partner agencies, this does not appear to be consistent and there is no evidence of a co-ordinated plan for Adult A. The case examiners note a significant deficit with regards to recorded communication and/or contact with Adult A, and this is reflected in the internal investigation and coroner's report.

Whilst it is noted that the social worker states that they do not wish to 'micro manage' practitioners and they should not need to check tasks for experienced social workers, the case examiners consider that it is their responsibility, as team manager, to have management overview of cases and address any deficit in service, especially when looking to end involvement with a case.

The social worker had raised concern with regards to the allocated social worker's practice and therefore it is reasonable to expect that more scrutiny would be focussed on

their practice, especially when case managing safeguarding concerns, to ensure the public is protected.

The case examiners note that the social worker, within their submissions to the regulator accepts the regulatory concern.

When considering regulatory concern 4 as a whole, the case examiners are satisfied that there is a realistic prospect of the regulatory concern being found proven by adjudicators.





Grounds

Regulatory concerns ■ 3, and 4

This case has been presented on the grounds of misconduct and/or a lack of competence or capability. The case examiners' guidance encourages them to (where possible) identify the appropriate statutory ground to proceed on, as this provides clarity as to the basis of Social Work England's case against the social worker. The case examiners are reminded, however, that in some cases they may not always be in the best position to identify one ground over another.

Lack of competence or capability

The case examiners were asked to consider if there is a realistic prospect of the regulatory concerns that are capable of being found proven amounting to the statutory ground of lack of competence or capability. When doing so, the case examiners have noted the case examiner guidance. This states that lack of competence or capability and misconduct are separate and distinct categories of impairment. Further, that performing poorly when knowingly practising outside the social worker's scope of practise may point to misconduct rather than a lack of competence or capability.

Put plainly, the case examiners could summarise that, if a social worker knew what to do but did otherwise, this is more likely to point towards misconduct than a lack of

competence or capability. If a social worker lacked the fundamental knowledge and skills to complete their duties, this is more likely to point towards a lack of competence or capability.

In this case, whilst it is suggested that the social worker may have lacked formal training in supervision, the case examiners consider it reasonable to assume, given the experience level of the social worker, that they would understand the fundamentals of good supervision. The case examiners are satisfied that the two independent statements from supervisees demonstrate the social worker had the knowledge and ability to provide adequate supervision.

With regards to processes, whilst the social worker may not be familiar with the specifics of internal policies and procedures, it is reasonable to expect that a manager is aware of where to find such documents and how to follow the content.

The case examiners consider that, in this case, whilst it is suggested that the social worker's performance fell short of what was expected, there is no suggestion that the social worker did not have the knowledge or skills to complete the tasks assigned to them as part of their managerial role.

As such, the case examiners are not satisfied there is a realistic prospect of adjudicators finding this matter amounts to a lack of competence or capability.

Misconduct

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.

Social Work England: Professional Standards (2019)

Promote the rights, strengths and wellbeing of people, families and communities

As a social worker, I will:

1.3 Work in partnership with people to promote their well-being and achieve best outcomes, recognising them as experts in their own lives.

Establish and maintain the trust and confidence of people

As a social worker, I will:

2.5 Actively listen to understand people, using a range of appropriate communication methods to build relationships.

Be accountable for the quality of my practice and the decisions I make

As a social worker, I will:

3.2 Use information from a range of appropriate sources, including supervision, to inform assessments, to analyse risk, and to make a professional decision.

3.11 Maintain clear, accurate, legible and up to date records, documenting how I arrive at my decisions.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

Promote ethical practice and report concerns

As a social worker, I will:

6.4 Take appropriate action when a professional's practice may be impaired.





Regulatory concerns 3 and 4

The case examiners are satisfied that the social worker, whilst not formally trained in certain elements of their role, was aware of the expectations of a managers role and had the level of experience to fulfil the role.

The case examiners consider that the social worker's practice fell significantly short of the requirement of a social work manager, and that this had the potential to fail to protect and/or create a risk of harm to a vulnerable person.

Safeguarding is a fundamental tent of social work, and the case examiners are satisfied from the information presented to them that the social worker's actions are likely to be considered a significant breach of the standards outlined above, and that there is a realistic prospect of adjudicators finding the grounds of misconduct 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

While the regulatory concern is considered by the case examiners to indicate a serious breach of a number of professional standards, the case examiners are satisfied that the social worker's alleged conduct is remediable, for example, by satisfactory completion of education or training courses, and by being able to demonstrate the ability to consistently perform to the required standards.

Insight and remediation

The social worker has provided detailed submissions to the regulator. The case examiners have noted progress in the social worker's insight throughout the investigation, which are reflected in the final submissions. *'The journey of this investigation has allowed for reflection on these practical issues whilst seeking to prevent recurrence and promote effective mentoring and leadership for the team.'*

The social worker has indicated that they accept the regulatory concerns and in addition to engaging with the regulatory investigation the social worker has also fully engaged with the internal investigation.

The case examiners note the internal investigation and disciplinary process recommended the social worker completed focussed training to address the concerns, which mirror the regulatory concerns. The social worker has provided evidence of the training they have completed and associated continuous professional development which they have completed to remediate.

The case examiners have noted information provided by the social worker's current line manager. The social worker has remained working for the same employer which offers the advantage of having an in-depth knowledge of the concerns and therefore identifying any further concerns at an early juncture. The employer confirms that the social worker is committed to completing the recommended training and development opportunities, remains in a managerial role with no restrictions, and that there have been no further concerns raised with regards to their practice.

Risk of repetition

Case examiner guidance states the risk of repetition is higher when the social worker fails to fully understand what they have done wrong; and that insight needs to be complete rather than partial. In this case, the case examiners have noted good insight and remediation on the part of the social worker, indicating that they do understand both where and why their professional practice fell significantly short of the required standard, and what action they should have taken instead.

Given the insight and remediation demonstrated by the social worker, together with evidence that there have been no similar concerns raised regarding the social worker, with the social worker remains with the same employer, the case examiners are satisfied that the risk of repetition is 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.

In this instance, the evidence indicates that the social worker did not fully address the vulnerabilities of Adult A within a safeguarding context and their management oversight of Adult A's case fell significantly short of what would have been expected.

The case examiners are of the view that, notwithstanding the perceived low risk of future repetition, a failure to sanction a social worker where the management oversight fell significantly short of what would be expected, leaving a vulnerable adult at potential risk, is likely to undermine the public's confidence in social work as a profession.

Accordingly, the case examiners have concluded there is a realistic prospect that a finding of current impairment would be made by adjudicators, should the regulatory concerns be found proven.

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 has accepted the key facts.
- The social worker, within their final submissions, accepts their practice is currently impaired.
- The social worker has demonstrated insight and continues to progress through their remediation. The case examiners are of the view that the risk of repetition can be managed through other sanctions available to them.
- The case examiners are of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the

importance of adhering to the professional standards expected of social workers in England.

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 have considered the available sanctions in ascending order of seriousness. The case examiners first considered taking no further action but decided that this would not be appropriate in a case where a social worker is alleged to have breached professional boundaries, potentially placing a vulnerable person at risk of harm. 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. The case examiners decided that issuing advice was not sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners next considered whether a warning order would be appropriate in this case. The case examiners are aware that where a social worker's fitness to practise is potentially impaired, they will usually need to ensure the public is protected through some action by the regulator. The case examiners are of the view it is necessary to

preserve public confidence in the profession and as such have decided to suggest a warning order, which implies a clear expression of disapproval of the social worker's conduct.

The case examiners have considered the length of time for the published warning and consider 3 years to be proportionate in this case; the case examiners have referred to Social Work England impairment and sanctions guidance (2022) in making this decision. The case examiners do not consider a 1-year warning to be proportionate, as they do not view the matter to be of low seriousness. Rather, they consider a warning order for 3 years to be appropriate, as they view the conduct to be serious and had the potential for harm to a vulnerable service user. As the case examiners have noted insight and progressing remediation, they consider that 3 years would allow the social worker to further develop their insight and continue to remediate, and address any risk of repetition.

The case examiners next considered a warning order of 5 years. While the case examiners do consider the social worker's alleged actions to be particularly serious, they have balanced this against all the circumstances of this case. Having done so, the case examiners are of the opinion this is not a case that has only fallen marginally short of requiring restriction of practice, and as such, consider 5 years to be excessive.

The case examiners also went on to consider whether more severe sanctions, conditions of practice, suspension or removal order were appropriate in this case. They were mindful of their guidance, which states that where there is a risk of repetition, a sanction requiring restriction of practice will normally be necessary. On this occasion, taking all of the circumstances of the case into account and the insight and ongoing remediation, the case examiners consider these more severe sanctions are not warranted. The case examiners are of the view that the social worker has demonstrated insight into their conduct, and completed remediation with the oversight of their employer, therefore oversight by the regulator would be disproportionate. They are also of the view that a warning order of 3 years' duration will achieve the primary goal of protecting the public and safeguarding public confidence. The case examiners considered that suspension or removal from the register would be a disproportionate and punitive outcome in this case.

The case examiners will notify the social worker of their intention to suggest a published warning 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 whereby the management oversight of a vulnerable adult fell significantly short is serious. The matters alleged had the potential to cause harm to a vulnerable adult. Your actions as alleged also have the potential to have an adverse impact 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 adhere to the required professional standards. The case examiners particularly remind the social worker of the following Social Work England professional standards:

Be accountable for the quality of my practice and the decisions I make

As a social worker, I will:

3.2 Use information from a range of appropriate sources, including supervision, to inform assessments, to analyse risk, and to make a professional decision.

3.11 Maintain clear, accurate, legible and up to date records, documenting how I arrive at my decisions.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

Promote ethical practice and report concerns

As a social worker, I will:

6.4 Take appropriate action when a professional's practice may be impaired.

This warning order will be for a duration of 3 years.

Response from the social worker

The social worker responded by email on 09 July 2024 and returned the accepted disposal response confirming: *'I have read the case examiners' decision and the accepted disposal guidance. I admit the key facts set out in the case examiners 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 concluded that the social worker's fitness to practise was likely to be found impaired but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning order with a duration of three years, and the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, 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 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 by way of a warning order of 3 years is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.