

Case Examiner Decision
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FTPS-17926

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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

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

Final outcome	Accepted disposal – warning order (three years)
Date of the final decision	20 November 2023

Executive summary

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

1. The factual concerns (1-3) could be found proven by the adjudicators.
2. In respect of concern 4, the case examiners agree with the recommendation for closure put forward by investigators.
3. Regulatory concerns (1-3) could amount to the statutory ground of misconduct.
4. The adjudicators could conclude that the social worker's fitness to practise is currently impaired.

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

As such, the case examiners notified the social worker of their intention to resolve the case with a warning order of three years duration. The social worker was given 21 days to decide if they agreed to this proposal, and to consider whether they could accept a finding of impairment.

Initially, the social worker responded, suggesting the sanction, or duration of the sanction was too severe. The case examiners provided a response reiterating that they are unable to amend the sanction or duration of a sanction once it has been proposed, and that they remain satisfied that the sanction is proportionate. The case examiners afforded the social worker a further opportunity to accept the proposal, and the social worker did so on 20 November 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.

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. This content will be redacted in the complainant's copy of this decision, and the social worker will be advised that text highlighted in a different colour has been redacted.

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in [REDACTED] will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's current employer, Northamptonshire County Council, hereafter referred to as 'the council.' The social worker also self-referred on 20 October 2020
Date the complaint was received	August 2020
Complaint summary	The social worker's former employer has raised concerns about the social worker's conduct in that they:

	- Failed to safeguard children by being intoxicated at home whilst supervising several children. - Were rude and abusive towards police officers.
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Regulatory concerns / Concerns

Whilst registered as a social worker on 22 August 2020, you

RC1. Failed to safeguard children by being intoxicated at home whilst supervising several children.

RC2. Were rude and abusive towards police officers.

RC3

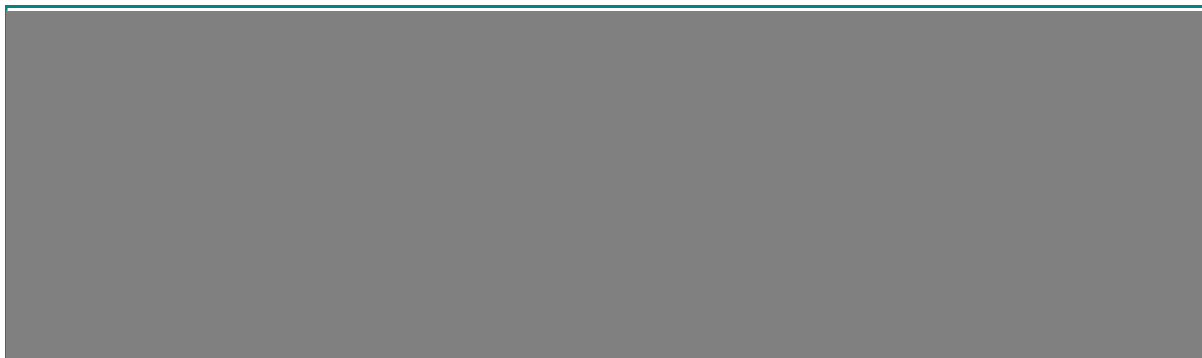
Ground of impairment

The matters outlined at regulatory concerns 1 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Concerns being recommended for closure:

Concerns being recommended for closure are concerns raised by the complainant, for which no evidence has been found during the investigative process or where the evidence obtained negates the concern(s). Decisions regarding concerns being recommended for closure remains the remit of the case examiners.



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, 2 and 3** 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

RC1. Failed to safeguard children by being intoxicated at home whilst supervising several children.

RC2. Were rude and abusive towards police officers.

The case examiners have seen an email from the police, sent on 23 August 2020 to the emergency duty team (out of hours social care services). This email, sent the day after the police had attended the social worker's property provides the following evidence in respect of regulatory concerns 1 & 2:

- The police report several drunk children inside the social worker's property.

- A group of between 10-15 children are said by the attending police officers to be 'heavily intoxicated.'
- The police report describes '*some females were so drunk they were having to hold onto walls to prevent themselves from falling over.*'
- The social worker was not considered to be in a fit state to look after the children in their home.
- There were concerns that some children who ran away from the house when the police arrived would become potential victims as they had been drinking heavily. The police made a decision that the children could not remain at the social worker's address and the children were all removed without using police protection powers.
- The social worker was said to be abusive towards the attending police officers calling them '*cunts*' and telling them to '*fuck off.*'
- A further email from the police to 'the council' dated 17 September describes the social worker's behaviour as witnessed from bodycam footage as vile,' they go on to say that being drunk is not an excuse for that level of rudeness and claim that the following day they were obstructive and rude again.
- The social worker's daughter told the attending police they did not want to be at the address with their mother and the decision was made to take her to her friend's house.
- The attending police officers were of the view that the social worker did not appear bothered by the attendance of the police. The report states that the social worker '*was informed that this incident could result in [them,] being interviewed for neglect,*' but they continued to be abusive and asked officers to take the children away
- In submissions the social worker accepts both regulatory concerns one and two. They say that this happened on one occasion in relation to regulatory concern one and that their behaviour in respect of regulatory concern two was an isolated incident and not reflective of their usual behaviour.

The case examiners consider there is a realistic prospect this concern would be found proven.

RC3.

The case examiners consider there is a realistic prospect this concern would be found proven.

Concerns recommended for closure

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 Social Work England Professional Standards, which were applicable at the time of the concerns. The case examiners consider that there may have been a departure from the following standards:

I will:

3.4: recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families, and their support networks.

I will not:

5.2: behave in a way that would bring into question my suitability to work as a social worker while at work or outside of work.

The case examiners consider that the regulatory concerns they have found a realistic prospect of being found proven (1-3) are indicative of a serious departure from what would be expected of a registered social worker. The case examiners have taken into consideration the possibility that a number of children could have been harmed on the night of 22 August 2020 as a result of their underage drinking and subsequent fleeing from the property when the police arrived. In addition to this, the social worker's interactions with the police, albeit they were outside of working hours, would not have provided a good representation of the social work profession to the police officers in attendance.

Given the above the case examiners consider there is a realistic prospect that concerns 1-3 would amount to the statutory grounds of misconduct.

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.

Insight: In their investigative interview, dated 28 October 2020, the social worker said that they did not consider themselves to be inebriated on the 22 August 2020, could not explain why they had not taken action to put a stop to young people drinking in their home, and said that they had responded to the police in an inappropriate way as they had *'rubbed [them] up the wrong way.'* The social worker said in their interview that when the police had informed them [REDACTED] they *'did not give a shit,'* [REDACTED] and in their opinion the police had not handled things well. When asked about their police interview, the social worker said that when they looked at the incident in context they did not feel it warranted any further action. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The social worker has accessed support for issues with [REDACTED]

[REDACTED]

Remorse: [REDACTED]

[REDACTED] he police officer says that in interview the social worker showed a *'great level of remorse, breaking down in tears,'* During the police interview the social worker disclosed some mitigating circumstances, in relation to [REDACTED]

In submissions dated 1 February 2021, the social worker says that they are deeply upset about what occurred and continue to feel ashamed about the incident in question.

Remediation: [REDACTED]

[REDACTED]

Risk of repetitio [REDACTED]

[REDACTED]

In their consideration of the risk of repetition, the case examiners have referred to their guidance to consider whether the social worker has fully understood what has gone wrong and why it is wrong. The social worker has engaged with the process of investigating the concerns and has taken proactive steps to manage their health issues, which the social worker states was a contributing factor to their conduct. This is very positive and shows some insight into the issues of concern. The social worker does express remorse and describes feeling ashamed about the incidents that took place on 22 August 2020. The social worker has taken steps to address issues of [REDACTED] [REDACTED] which was clearly having a significant impact on their wellbeing.

However, the social worker has yet to reflect on the potential harm that could have come to the young people in their care on 22 August 2022, or address what could and should have been done differently. Concerns that the social worker may have minimised the potential impact on children and young people in their care on the night of the party remain unaddressed by them.

In summary the case examiners conclude that the social worker has demonstrated a commitment to addressing the issues of concern. It is clear that positive progress is being achieved in terms of managing their health and wellbeing. However, the case examiners have identified areas where they consider insight to be lacking, or incomplete.

Public element

The case examiners consider that events that took place on 22 August 2020 had the potential to cause harm to a number of young people who had consumed alcohol in the social worker's home. Whilst there is no indication that any of the children were actually harmed, the description of the incident provided by the police is very concerning and would represent an unacceptable risk of serious harm if repeated.

The case examiners consider that the social worker has acted on the health issues that may have contributed to their actions on 22 August 2020, and they accept that there have been no further incidents. However, they remain concerned that the social worker has yet to reflect on, and demonstrate insight into, the risk of harm their actions presented to the young people who were drunk in their property on the evening in question.

The case examiners have outlined in their consideration of the grounds, the potential departure from professional standards. The case examiners consider that the events of 22 August 2020 could have put several young people at risk of harm and would not inspire trust and confidence in the profession. It is likely that ordinary members of the public would be shocked to learn that several 13 years olds had been drinking alcohol at the home of a registered social work professional, who was also under the influence of alcohol and was deemed incapable by attending police to look after them for the evening.

The case examiners consider that the public would expect a finding of impairment to be made, to uphold public confidence in the social work profession and to uphold the standards expected of registered social workers.

Accordingly, the case examiners consider there is a realistic prospect that adjudicators would find the social worker 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	☒
Could a removal order be required?	Yes	☐
	No	☒
Would not holding a public hearing carry a real risk of damaging public confidence in Social Work England's regulation of the profession?	Yes	☐
	No	☒
Is a hearing necessary to maintain public confidence in the profession, and to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

The case examiners have concluded that a risk of repetition remains, and the public interest in this case is engaged. However, they are satisfied that the matter may be appropriately fulfilled by using accepted disposal options available to them.

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired.

Where a social worker does not accept impairment, Case Examiner Guidance (February 2020) suggests that a referral to hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance. In reaching this conclusion, they noted the following:

- There is no conflict in evidence in this case and the social worker accepts all of the key facts.
- The case examiners are of the view that the social worker's insight appears more developed in some areas such as addressing their health needs, but is incomplete in other respects, such as their understanding of potential risk and harm and identifying what they could have done differently. Therefore, any finding of impairment would be primarily made in the public interest, to safeguard public confidence and to protect the public.
- The case examiners recognise that not all professionals will have an innate understanding of how and when impairment and the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise.
- The accepted disposal process will provide to the social worker an opportunity to review the case examiners' reasoning on impairment and reflect on whether they are able to 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, 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.
- With regards to upholding standards, the case examiners are aware, in the event the social worker agrees to an 'accepted disposal' without a referral to a hearing, their full decision will be published on Social Work England's website, thus fulfilling the public interest and the need for the regulator to declare what is proper conduct. They are aware that their guidance supports this approach in all but the most serious cases.
- Both the public and other professionals will be able to see the types of behaviour that are deemed unacceptable. Further, they will be able to see that the regulator will take swift and appropriate action when faced with instances of conduct which purportedly breaches professional standards

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	Three years	

Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance 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. Furthermore, the guidance requires that decision makers select the least severe sanction necessary to protect the public and the wider public interest.

In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available sanctions in ascending order of seriousness. The case examiners considered taking no further action but considered that this would not be appropriate in this instance as it would not satisfy the wider public interest.

The case examiners next considered whether offering advice 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 social worker's conduct.

The case examiners then considered a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order, and the case examiners concluded that a warning order is the appropriate and proportionate outcome in this case; and represents the minimum sanction necessary to uphold the public's confidence. When considering a warning order, case examiners can direct that a warning order will stay on the social worker's register entry for periods of one, three or five years. According to case examiner guidance, 1 year might be appropriate for an isolated incident of relatively low seriousness where the primary objective is to send a message about the professional standards expected of social workers; 3 years might be

appropriate for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers; and 5 years might be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration, to maintain confidence in the profession and where it is necessary to send a clear signal about the standards expected.

The case examiners have thought carefully about the appropriate length of a warning order. The case examiners do not consider the issues of concern to be of low seriousness because of the potential for harm to the young people in the social worker's care on 22 August 2020 and, the risk of repetition as a result of the social worker's longstanding lack of insight into this. The case examiners consider that a three-year warning order would mark the seriousness of the issues and highlight the importance of exhibiting behaviour which helps to maintain trust and confidence in the profession. A three-year warning order would also allow more time for the social worker to address the risk of repetition through reflection on the issues raised in this report.

The case examiners concluded that a five-year warning order would seem disproportionate given that there have been no further concerns raised in the last three years and the social worker has made good progress in managing their health and wellbeing.

The case examiners have tested their proposed sanction by considering whether Conditions of Practice would be more suitable, however, they consider this would be both disproportionate and unnecessary as the social worker has been practising unrestricted in recent years.

The case examiners have decided to propose to the social worker a warning order of three years duration. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 21 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 remind the social worker that the Social Work England professional standards make clear that registered social worker's will not:

5.2: behave in a way that would bring into question my suitability to work as a social worker while at work or outside of work.

And will:

3.4: recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families, and their support networks.

The case examiners consider that the social worker has yet to reflect on their conduct on the night of 22 August 2020 and how this may have presented risk to young people and departed from professional standards. The case examiners encourage, though cannot mandate, the social worker to engage in some reflective discussions or activity to develop their insight into the issues of concern.

Should there be any repetition of the concerns under consideration whilst the warning order is in place, this is likely to result in a more restrictive sanction.

Response from the social worker

The social worker responded to the proposal to deal with matter via accepted disposal-warning order (3 years) on 6 November 2023. The social worker asked that the sanction proposed is reviewed, in light of the incident being over three years ago and there being no further concerns.

Second response from social worker

On 16 November 2023 the social worker confirmed that they would accept the accepted disposal proposed to them, a warning order of three years duration. The social worker has confirmed that they understand the terms of the proposed disposal of their fitness to practise case and accept them in full.

Case examiners' response and final decision

Case examiner first response

The case examiners are mindful of the case examiner guidance (2022, paragraph 199) which states case examiners are not able to change a proposed sanction once the proposal has been made. As such, the case examiners are not able to agree to amendments on the specific sanction or its duration and will only generally agree to amendments that relate to (either of the following):

- factual inaccuracies in their report

- the workability of any proposed conditions of practice

The case examiners note that the comments from the social worker suggest that they are requesting a change in sanction. However, the case examiners are mindful that the social worker has not, at this time, rejected an accepted disposal outright.

The case examiners wish to make it clear that it is not within their powers to change the proposed sanction on offer. They have also had regard to paragraph 201 of their guidance which notes that if the case examiners reject the requested amendments, they can re notify the social worker of the original proposal. They can invite the social worker again to consent to the proposed sanction, and can do so if they are satisfied that (both of the following have occurred):

- the social worker's request and submissions have no material impact on their previous assessment (as to public interest in referring to a hearing)
- the social worker has accepted the principles of their decision and the proposed means of concluding the case

The case examiners remain satisfied at this point that there is no public interest in referring the case to a hearing and consider that an accepted disposal in the form of a warning order of 3 years duration remains the most appropriate means of disposal for these matters.

The case examiners would therefore like to provide the social worker with a further opportunity to consider the proposed sanction, together with their explanation as to why they are unable to amend the sanction proposed.

Accordingly, 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 a further 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.

Case examiner final response

On 20 November the case examiners received the social worker's second response to their proposal. The case examiners have reviewed their decision, paying particular regard to the overarching objective of Social Work England: protection of the public, the maintenance of public confidence in the social work profession and upholding professional standards. The case examiners are satisfied that an accepted disposal (warning -3 years) is a fair and proportionate way to address the concerns and is the minimum necessary to protect the public and satisfy the wider public interest.