

Case Examiner Decision
Adam Auty – SW110916
FTPS-23833

Contents

The role of the case examiners	3
Decision summary	4
The complaint and our regulatory concerns.....	6
Preliminary issues	7
The realistic prospect test	8
The public interest.....	15
Accepted disposal	17

The role of the case examiners

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

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

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

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

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

Decision summary

Decision summary	
Preliminary outcome	19 May 2025
	Accepted disposal proposed - removal order
Final outcome	23 May 2025
	Accepted disposal - removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of a conviction or caution in the UK of a criminal offence, and of regulatory concern 2 being found to amount to the statutory grounds of misconduct.
3. For regulatory concerns 1 and 2, 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 was notified of their intention to resolve the case with a removal order. The social worker subsequently accepted the proposed disposal of a removal order. Having revised the public

interest in the case, the case examiners determined that an accepted disposal removal order was the most appropriate outcome in this case.

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

The complaint and our regulatory concerns

The initial complaint	
The complainant	The complaint was raised via a referral from the police.
Date the complaint was received	17 October 2024
Complaint summary	The police disclosed to Social Work England that the social worker had been arrested and subsequently charged for the offence of ‘sexual assault on a female’. During the course of Social Work England’s investigation, further information emerged indicating that the social worker may have failed to declare their arrest or charge to the regulator.

Regulatory concerns
1. On the 4 November 2024, you were convicted at Ipswich Magistrates Court for the criminal offence of a sexual assault on a female on the 16 December 2023. 2. You did not declare your arrest or charge on the 16 December 2023 to the Regulator. Grounds of impairment: The matters outlined in regulatory concern (1) amount to the statutory ground of conviction or caution in the UK of a criminal offence. The matters outlined in regulatory concern (2) amount to the statutory ground of misconduct. Your fitness to practise is impaired by reason of conviction or caution in the UK of a criminal offence and/or misconduct.

Preliminary issues

Investigation		
Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?	Yes	☒
	No	☐
Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?	Yes	☒
	No	☐
Are the case examiners satisfied that they have all relevant evidence available to them, or that adequate attempts have been made to obtain evidence that is not available?	Yes	☒
	No	☐
Are the case examiners satisfied that it was not proportionate or necessary to offer the complainant the opportunity to provide final written representations; or that they were provided a reasonable opportunity to do so where required.	Yes	☒
	No	☐

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



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

Reasoning

Facts

1. On the 4 November 2024, you were convicted at Ipswich Magistrates Court for the criminal offence of a sexual assault on a female on the 16 December 2023.

The case examiners have been provided with a copy of a court extract from the relevant court. This confirms that on 4 November 2024, the social worker pleaded guilty to, and was convicted of the following offence:

"On 16/12/2023 at Ipswich in the county of Suffolk intentionally touched a woman aged 16 or over and that touching was sexual when she did not consent, and you did not reasonably believe that she was consenting."

The extract indicates that the social worker was given a community order requiring them to participate in an accredited programme for 40 days and to engage in rehabilitation activity, and a compensation order was made. The social worker was

also required to register with the police in accordance with the Sexual Offences Act 2003 from 19 December 2024, for a period of five years.

There is also police evidence outlining the circumstances leading to the conviction, and the social worker admits the concern in their submissions.

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

2. You did not declare your arrest or charge on the 16 December 2023 to the Regulator.

The case examiners have had sight of police evidence outlining that the social worker was arrested on 16 December 2023 in relation to the offence for which they were subsequently convicted as outlined at concern 1 above. This evidence also confirms that the Crown Prosecution Service authorised the criminal charge against the social worker on 9 October 2024.

The information presented to the case examiners indicates that Social Work England did not become aware of the social worker's arrest and criminal charge until a referral was received from the police on 17 October 2024.

The case examiners note that a period of some ten months had passed between the social worker's arrest and the police referral.

In relation to a requirement for the social worker to disclose that they were under investigation for a criminal offence, the case examiners have noted Social Work England's professional standard below.

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

The social worker, in their submissions, accepts this concern, advising that:

"I accept this regulatory concern and understand clearly my obligation to inform Social Work England promptly of any such matter. My failure to notify Social Work England at the time was neither intentional nor due to disregard for my professional responsibilities. After leaving the police station, I mistakenly believed the matter was concluded and that no further action would follow, leading to my oversight in not immediately notifying the regulator".

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the facts of concern 2 proven.

Grounds

In relation to concern 1, the relevant statutory ground under consideration is a conviction or caution in the United Kingdom for a criminal offence.

As noted in their consideration of facts above, the case examiners have had sight of a copy of a court extract which they are satisfied provides cogent evidence that the statutory grounds are engaged.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the statutory grounds of conviction or caution in the United Kingdom for a criminal offence proven.

In relation to concern 2 the relevant statutory ground under consideration is misconduct.

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

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered Social Work England's professional standards for social workers, which were applicable at the time of the concerns. Having done so, they are of the view that the social worker may have breached the following standards:

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.

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

The case examiners note the professional guidance for social workers in relation to their professional standards. This guidance reminds social workers of the need to be open when something goes wrong or has the potential to cause physical and

emotional harm or loss; failing to be open can put people at risk and may damage confidence in them as a social worker and the social work profession.

The case examiners have also been informed that subsequent to the police referral, the social worker was made subject to an interim order restricting their practice by way of suspension. The case examiners are of the view that the social worker's failure to ensure a declaration was made regarding their arrest and subsequent charge for a sexual offence was likely to have delayed the risk assessment process that underpins an interim order being applied. This will have had the potential to expose the public to risk of harm and to adversely impact on confidence in the profession.

The case examiners consider that the alleged actions and/or omissions of the social worker as outlined in concern 2, represent a significant breach of the required professional standards.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the statutory 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

The case examiners are of not of the view that regulatory concern 1, which relates to a criminal conviction for a sexual assault, is easily capable of remediation. The case examiners also note that the social worker is currently required to register with the police in accordance with the Sexual Offences Act 2003, a requirement that will not expire before 19 December 2029. Nonetheless, the social worker could attempt to demonstrate insight and remediation, for example by acknowledging the seriousness of their actions that led to their conviction, and outlining such actions they have taken

since the offence took place to show that they would be highly unlikely to act in the same way again.

In relation to concern 2 however, remediation could be more easily remedied, for example through the social worker demonstrating clear insight into why they failed to inform their regulator, together with evidence that they understand the seriousness of the alleged breach of standards, the importance of risk assessment when serious allegations are made, the likely impact on public confidence in the profession, and remediation capable of assuring the case examiners that such an action or omission is unlikely to be repeated.

Insight and remediation

The case examiners have considered the social worker's submissions to the regulator and are of the view that the social worker has failed to demonstrate adequate insight and remediation into the alleged concerns.

For example, while the social worker states that they "*fully accept*" concern 1, the case examiners note that in their initial comments to the regulator dated 5 February 2025, and thus after they have pleaded guilty to the offence in court, the social worker does not directly refer to their actions as amounting to a sexual assault. The case examiners consider that the social worker's use of language in their submissions may indicate a continuing reluctance on the part of the social worker to acknowledge that they committed a sexual assault on a woman; rather they describe having made "*physical contact with the woman*" and state that they "*do not believe the contact was intentional*". They also later describe their actions as "*inappropriately touching a woman*".

The social worker proceeds to describe it being a "*shock*" to have been summoned to court and charged with sexual assault. Further, while the social worker acknowledges that their actions nonetheless caused distress and that they "*deeply regret the impact (their actions) had on (the woman)*", and hope that their "*reflections and efforts to address my failings demonstrate my commitment to personal and professional growth*", the social worker does not provide any direct evidence of having engaged in any specific remedial activities in relation to being a sexual offender. While they do give some consideration to the harm caused by their actions to a member of the public, they do not address the adverse impact on confidence in the profession in terms of a social worker committing a sexual assault and being currently subject to a register for sexual offenders.

In relation to concern 2, while the social worker states they "*did not do this intentionally or with disregard for my responsibilities*", they do not address the risks

to the public and to public confidence in a social worker failing to declare criminal proceedings.

While the social worker accepts impairment and does attempt to provide some explanation for their actions at concern 1, stating that they were “*intoxicated*” and “*had no recollection of such actions*”, the case examiners are not of the view that these explanations appropriately address why the social worker may have acted as they did.

In their final submissions dated 6 May 2025, while the social worker indicates some development of insight and remediation, the case examiners are of the view that this continues to be limited. The social worker does not expressly address how having committed a sexual offence and being on the sex offender register would impact on their fitness to practice and public trust and confidence in them as a social worker and the profession as a whole. The social worker references that they will “*soon commence a probation-led rehabilitative programme specifically addressing sexual offences*”; this may provide a future opportunity for the social worker to develop their insight and to demonstrate further evidence of remediation.

The case examiners are also of the view that it is unlikely that the social worker could be considered to be fit to practice while required to register with the police in accordance with the Sexual Offences Act 2003, a requirement that does not expire until 19 December 2029.

Risk of repetition

In light of the limited insight and remediation demonstrated by the social worker, the case examiners are of the view 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.

Having carefully considered all of the information presented to them, the case examiners are of the view that a fully informed and reasonable member of the public would be alarmed by evidence that a social worker had been convicted of a sexual offence and was required to register with the police in accordance with the Sexual Offences Act. Evidence that the social worker then failed to inform their regulator of criminal proceedings, despite a duty to do so, is also likely to exacerbate public concern. The case examiners consider that a finding of impairment and an

appropriate sanction would be expected by the public to maintain public confidence in the profession and maintaining professional standards.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding 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	☒
Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

The case examiners have considered whether a referral to a hearing may be necessary in the public interest, and have noted the following:

- There is no conflict in the evidence in this case and the social worker accepts the key facts.
- The social worker has accepted that they are currently impaired.

The case examiners are therefore 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.

Interim order

An interim suspension order is already in effect.

Accepted disposal

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

Reasoning

In considering the appropriate outcome in this case, the case examiners have had regard to Social Work England's impairment and sanctions guidance (December 2022) and reminded themselves that the purpose of sanction is not to punish the social worker but to protect the public and the wider public interest.

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

The case examiners determined that taking no further action was not appropriate in a case of serious misconduct which includes an allegation of being convicted for a sexual offence, being subject to the sex offender register, and failing to inform the regulator. Taking no further action is not sufficient to mark the seriousness with which the case examiners view the social worker's alleged conduct and fails to safeguard the wider public interest.

The case examiners also concluded that offering advice or a warning to the social worker was unlikely to be appropriate in a case where such serious misconduct was alleged, and where the risk of repetition had been found.

Next, the case examiners turned their minds to conditions of practice. The primary purpose of a conditions of practice order is to protect the public whilst the social worker takes any necessary steps to remediate their fitness to practise. Conditions are most commonly applied in cases of lack of competence or ill health. The sanctions guidance states that conditions are less likely to be appropriate in cases of character, attitudinal or behavioural failings. In light of the nature of the alleged offending, the limited evidence of insight and remediation, and that the social worker appears to be subject to the sex offender register, the case examiners do not consider conditions of practice to be appropriate or workable. Further, the case examiners consider that in the circumstances of this case, conditions would not protect the public and wider public confidence and would not reflect the seriousness of the alleged concerns.

As such, the case examiners went on to consider suspension. The sanctions guidance states that suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest and where the case falls short of requiring removal from the register. The case examiners have given careful consideration to whether suspension would be an appropriate sanction; however, they specifically note from their guidance on sanctions that:

“In all cases of serious sexual misconduct, it will be highly likely that the only proportionate sanction is a removal order. If decision makers decide that a sanction other than a removal order would be appropriate, they must fully explain why they have made that decision”.

While the case examiners are aware that every case must be considered on its own merits, the case examiners do not consider that this is a case which *“falls short of requiring removal from the register”*. They are of the view that the social worker’s alleged actions, if subsequently found proven by adjudicators, to be wholly incompatible with the profession, and therefore, do not consider a suspension order to be appropriate.

The case examiners next turned their minds to a removal order. Given the serious nature of the allegations, the case examiners are of the view that no other outcome than a removal order can protect the public, maintain confidence in the profession, and maintain proper professional standards for social workers in England.

To conclude, the case examiners have decided to propose to the social worker a removal order. They request that the social worker is notified of their proposal and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 28 days to respond. If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Response from the social worker

On 20 May 2025 the social worker returned their completed accepted disposal response form, confirming as following:

"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 reviewed their decision, paying particular regard to the over-arching objectives of Social Work England:

- The protection of the public
- Maintaining confidence in the social work profession
- The maintenance of professional standards.

The case examiners remain satisfied that an accepted disposal removal order is a fair and proportionate way to conclude this matter, and is the minimum sanction required to protect the public and the wider public interest.

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