

Case Examiner Decision
Andrew K D Thomas – SW92632
FTPS-20560

Contents

The role of the case examiners.....	3
Decision summary.....	4
The complaint and our regulatory concerns	6
Preliminary issues	8
The realistic prospect test.....	9
The public interest	12
Accepted disposal	14

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	10 January 2025
	Accepted disposal proposed-removal order
Final outcome	4 February 2025
	Accepted disposal -removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of a finding by a regulatory body that a person's fitness to practise is impaired.
3. For regulatory concern 1, 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 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 responded on 4 February 2025 accepting the case examiners' proposal in full.

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

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, a social work recruitment agency, Nonstop Consulting.
Date the complaint was received	15 February 2022
Complaint summary	The social worker was employed at Monmouthshire County Council via a recruitment agency, when their manager raised concerns to the agency. This related to missing statutory visits and meetings and that some case records may have been fabricated as well as court deadlines being missed and incomplete reports being submitted to child protection conferences. The concerns were raised to Social Care Wales, which imposed an 18-month interim suspension order that lapsed on 13 October 2023. On completion of its investigation, Social Care Wales held a Fitness to Practise hearing which concluded on 1 November 2024; it determined a finding of impairment and imposed a 12-month suspension order.

Regulatory concerns

While registered as a social worker: -

On 01 November 2024, a regulatory body, namely Social Care Wales made a determination that your fitness to practise is impaired by reason of serious misconduct and deficient performance.

Grounds of impairment:

The matters outlined at regulatory concern 1 amount to the statutory ground of a finding by a regulatory body that a person's fitness to practise is impaired.

Your fitness to practise is impaired by reason of a determination by a regulatory body to the effect that the social workers fitness to practise is impaired.

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 concern 1 being found proven, that the concern could amount to the statutory ground of a finding by a regulatory body that a person's fitness to practise is impaired, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts and Grounds

While registered as a social worker: -

On 01 November 2024, a regulatory body, namely Social Care Wales made a determination that your fitness to practise is impaired by reason of serious misconduct and deficient performance.

The case examiners have seen the hearing determination from Social Care Wales which concluded on 1 November 2024. The hearing minutes set out the panel's reasoning and the alleged conduct of the social worker. The panel concluded that the social worker's practice is currently impaired on the grounds of 'serious misconduct and deficient performance' and imposed a 12-month suspension order.

The case examiners are therefore satisfied there is a realistic prospect of adjudicators finding this concern proven and that this would amount to the statutory ground of a finding by a regulatory body that a person's fitness to practise is impaired.

Impairment

Personal element of impairment

In considering the personal element of impairment, the case examiners have considered the test set out in the case examiner guidance (2022), namely whether the conduct is easily remediable; whether the social worker has undergone remediation and demonstrated insight; and whether there is a high likelihood the matters alleged will be repeated.

The case examiners consider it is possible to remediate the alleged conduct through training, support and reflecting upon their conduct. In this instance, the social worker is alleged to have failed to complete statutory visits, statutory meetings, did not keep accurate case notes and has filed incomplete or inadequate reports.

The social worker has accepted the finding of Social Care Wales and has confirmed that they are not intending to appeal this decision. They have not provided submissions which address the alleged conduct which led to this determination by the other regulator. However, the case examiners have seen the statement provided by the social worker for the Social Care Wales hearing, which suggests that the social worker does not accept the concerns raised about them. They state, *'I understand the allegations that have been made against me and I wish to state when I was employed as a social worker I have always tried to work to the best of my ability and have always sought to work with families in an open and honest manner'*.

The case examiners are of the view that whilst the social worker is entitled to dispute the concerns raised, their comments suggest a lack of insight into the alleged conduct and how this would have impacted on both the service users, and the public confidence in them.

The case examiners have been presented with no evidence of any remediation from the social worker.

The social worker has been on an interim suspension order with Social Work England since 18 July 2022, therefore they have not been able to work as a social worker since that time. The case examiners note the social worker has stated in their latest submissions, *'I do not intend to return to work as a social worker now or in the future'* and *'I do not intend to seek work in the wider social care sector'* and *'I have let my registration lapse and I have no intention of renewing it'*.

In the absence of any insight or remediation, the case examiners conclude that the risk of repetition is high.

Public element of impairment

The case examiners next considered whether the social worker's actions have the potential to undermine public confidence in social workers and whether this is a case where adjudicators may determine that the public interest requires a finding of impairment. Public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public's trust and confidence in the profession.

The case examiners have reminded themselves that the public interest includes responding proportionately to regulatory concerns. However, they consider that the adjudicators may determine that a member of the public would be concerned where a social worker is alleged to have failed to complete statutory meetings and visits as well as not kept accurate records or produced timely and adequate reports.

This may mean that children were left at risk of harm, as when there is no accurate record of what risks are present for children; they have not been seen regularly or the records are not up to date, other workers will have no clear picture of the current situation. This has the potential to seriously undermine public trust in social workers and to damage the reputation of the profession.

The case examiners are of the view that in these circumstances, members of the public would expect a finding of impairment.

Accordingly, the case examiners are satisfied that there is a realistic prospect of adjudicators making a finding of current impairment.

The public interest

Decision summary

Is there a public interest in referring the case to a hearing?

Yes

☐

No

☒

Referral criteria

Is there a conflict in the evidence that must be resolved at a hearing?

Yes

☐

No

☒

Does the social worker dispute any or all of the key facts of the case?

Yes

☐

No

☒

Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers?

Yes

☐

No

☒

Additional reasoning

The case examiners have carefully considered whether a referral to a hearing may be necessary in the public interest. The case examiners have noted that the social worker has not provided specific comments about the alleged conduct which led to the Social Care Wales finding, however their written comments to the panel suggest that they do not accept the key facts that sit behind the Social Care Wales decision. Nevertheless, the social worker has indicated that they do not intend to appeal the Social Care Wales outcome and have accepted that the suspension is in place.

The social worker has not indicated to Social Work England if they accept their fitness to practise is currently impaired. Where a social worker does not accept impairment, case examiner guidance suggests that a referral to a hearing may be necessary in the public interest. However, the case examiners have noted the following:

- The case examiners guidance reminds them that 'wherever possible and appropriate, case examiners will seek to resolve cases through accepted disposal. This is quicker and more efficient than preparing and presenting a case to a fitness to practise panel'.

- The social worker has not provided specific submissions in relation to the concern in this case. However, as above, the case examiners note the social worker's response to the decision of Social Care Wales. It would appear that the social worker has accepted the final decision of Social Care Wales which forms the basis of the concern in this matter but does not appear to accept the underlying conduct. Therefore, the case examiners are of the view that the social worker should be afforded the opportunity of an accepted disposal proposal to consider the case examiners' assessment of the evidence presented to them.
- The accepted disposal process will provide the social worker with the opportunity to review the case examiners reasoning on impairment and reflect on whether they do accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.
- The case examiners are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order to satisfy the public that this risk is being managed without the need for this to be examined within a public hearing.
- 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.

The case examiners are aware that a case cannot be concluded through an accepted disposal process where a social worker does not accept the facts and agree that they are currently impaired. At this stage, the case examiners' proposal for an accepted disposal process does not mark the conclusion of the case, as that would require a response from the social worker for the case examiners' consideration and is also subject to a final review of the case by the case examiners, who may determine to send the matter to a hearing following any response received.

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 had regard to Social Work England's Sanctions Guidance (2022) and reminded themselves that the purpose of sanction is not to punish the social worker, but to protect the public and the wider public interest. In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness. <u>No further action, advice or warning:</u> With reference to the regulator's sanctions guidance (December 2022), the case examiners noted that in cases where a risk of repetition remains, the outcomes of no further action, advice or warning are not appropriate as they will not restrict the social worker's practice. Due to the seriousness of the alleged conduct in this case, the case examiners are satisfied that such outcomes are inappropriate. <u>Conditions of practice order:</u>

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

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

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

The case examiners were of the view that in light of the social worker's alleged conduct and their declaration that they do not intend to work again as a social worker, there are no appropriate, proportionate or workable conditions that could be put in place. Furthermore, the case examiners considered that the public interest in this case would require a more serious sanction, so that public confidence could be maintained.

Suspension order:

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

The case examiners have considered the guidance, which states:

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

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

In this instance, the social worker has not shown any insight into the alleged conduct in the two years since they have been subject to an interim suspension order. The case examiners note the social worker's comments to the regulator that they do not intend to work again as a social worker and that they have deliberately allowed their registration to lapse and have no intention of renewing this. The case examiners note that the social worker is currently subject to suspension order within Wales until November 2025, therefore they are unable to practise in this region.

The case examiners therefore consider that a suspension order would not be appropriate in this instance.

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 and their lack of intention to work in the social care field again, there is no other outcome available to them that would provide the level of assurance needed in respect of these three criteria. In the case examiners' view, a removal order is the only sanction available that will safeguard public confidence.

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

Response from the social worker

The social worker responded on 4 February 2025 and confirmed that they had read and understood the terms of the proposed disposal. They confirmed that, *'I have read the case examiners' decision and the accepted disposal guide. I admit the key facts 22 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 are satisfied that the social worker has read and accepted the proposed disposal of a removal order. The case examiners have again 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 can be fulfilled through the accepted disposal process. The case examiners therefore direct that Social Work England implement a removal order.

