



# Case Examiner Decision

## Cyril W M De-Roche - SW24219

### FTPS-21459

## 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.....                | 9  |
| The public interest .....                       | 19 |
| Accepted disposal .....                         | 22 |

## 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 | 29 August 2024                             |
|                     | Accepted disposal proposed - removal order |
| Final outcome       | 11 September 2024                          |
|                     | Accepted disposal - removal order          |

## Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect proven by the adjudicators. 
2. There is a realistic prospect of regulatory concerns 1 (a and b) and 2 being found to amount to the statutory ground of misconduct.
3. For regulatory concerns 1 (a and b) 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 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 removal order. The social worker agreed to this proposal and the case examiners have concluded the case by way of accepted disposal.

The case examiners have considered all 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 [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.

In accordance with Social Work England's fitness to practise proceedings and registration appeals publications policy, the case examiners have anonymised the names of individuals to maintain privacy. A schedule of anonymity is provided below for the social worker and complainant, and will be redacted if this decision is published.

|          |            |
|----------|------------|
| Child A  | [REDACTED] |
| Person A |            |
| Person B |            |
| Person C |            |
| Person D |            |
| Person E |            |
| Person F |            |

## The complaint and our regulatory concerns

### The initial complaint

|                                 |                                                                                                                                                                                                                                                                                                               |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The complainant                 | The complaint was raised by the social worker's former employer, Portsmouth City Council                                                                                                                                                                                                                      |
| Date the complaint was received | 20 November 2022                                                                                                                                                                                                                                                                                              |
| Complaint summary               | <p>The complainant reported that the social worker had allegedly inappropriately restrained a child in a residential care setting, and had failed to follow the child's care plan. Further concerns were raised in respect of the social worker's recording of the incident, [REDACTED]</p> <p>[REDACTED]</p> |

### Regulatory concerns

Whilst registered as a social worker:

1. You failed to safeguard Child A in that on 2 November 2022 you:
  - a. Did not follow their care plan.
  - b. Inappropriately restrained them for an extended period.

[REDACTED]

2. You did not maintain full, accurate and/or timely case records.

The matters outlined in regulatory concerns (1) and (2) amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

## Preliminary issues

| Investigation                                                                                                                                                                                                                               |     |                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|-------------------------------------|
| Are the case examiners satisfied that the social worker has been notified of the grounds for investigation?                                                                                                                                 | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?                                                                                                | Yes | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| 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 | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |
| 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 | <input checked="" type="checkbox"/> |
|                                                                                                                                                                                                                                             | No  | <input type="checkbox"/>            |

| Requests for further information or submissions, or any other preliminary issues that have arisen                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The case examiners noted that within the case investigation report, it has been explained that Portsmouth City Council were asked by the regulator to establish whether witnesses would be willing to engage with this fitness to practise case.</p> <p>The case examiners are informed of the following position in respect of each witness:</p> <div style="background-color: #cccccc; height: 150px; width: 100%;"></div> |



In summary, the case examiners therefore understand that, at this point in time, only Person C is willing to engage with regulatory proceedings. The case examiners are mindful of their guidance, however, which explains that they should only discount evidence if there are no further reasonable steps Social Work England can take to encourage a witness to engage. The regulator is able to provide support to witnesses in a number of ways, both before and during a hearing.

In this case, it does not appear that the regulator has approached witnesses directly, and therefore there have been no discussions with witnesses at this early stage, or attempts made to address any concerns witnesses may have about engaging or attending a hearing. Considering this, the case examiners will consider the witnesses' evidence, in accordance with their decision-making guidance.



## 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 | <input checked="" type="checkbox"/> |
| No  | <input type="checkbox"/>            |

The case examiners have determined that there is a realistic prospect of regulatory concerns 1 (a and b) and 2 being found proven, that those concerns could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

### Reasoning

#### Context to the concerns

In order to provide some context to the concerns, the case examiners provide the below summary of alleged events.

- On 2 November 2022, Child A was residing in a residential setting which offered respite services during the day, and overnight care for children with significant disabilities.
- At the time, the social worker was employed as a senior residential social services officer, working within the residential setting.
- Child A was five years old at the time, and non-verbal. There were written guidelines to help Child A settle at the residential setting, which were referred to as a care plan in the evidence. The guidelines included the use of PECS symbols and a familiar 'blankie'. The case examiners are aware that PECS symbols are

visual aids / cards that allow a child to communicate with parents, carers, teachers and peers. Child A also liked to have a dummy for comfort, and was known to search for it if tired or upset. With regards to mealtimes, Child A did not sit at a table to eat at home, and liked to sit at a small table by an art cupboard in the residential setting. Child A preferred to sit by themselves, and would move to and from the small table, sitting when they were ready.

- Person E raised a LADO referral in respect of events on 2 November 2022, and alleged that Child A was inappropriately restrained by the social worker and another member of staff (Person A) at the main dinner table. It was also alleged that Child A had not been provided with sufficient food, their care plan had not been followed, and records were insufficient / inaccurate / not timely.
- A local investigation was undertaken, along with a separate police investigation. The police took no further action on the basis of evidential difficulties.

### Facts

#### **Whilst registered as a social worker:**

#### **1. You failed to safeguard Child A in that on 2 November 2022 you:**

##### **a. Did not follow their care plan.**

As outlined above, the case examiners have had sight of a set of guidelines to support Child A to settle in the residential setting, which are referred to as a care plan throughout the evidence. Those guidelines specified that at mealtimes, Child A did not sit at a table to eat at home, and liked to sit at a small table by an art cupboard in the residential setting. Child A preferred to sit by themselves, and would move to and from the small table, sitting when they were ready. During local investigation, the social worker reported that they had looked at Child A's care plan on 2 November 2022, as they rarely worked with the child.

Having reviewed witness statements, the case examiners are satisfied that there is broad consensus that Child A was sat at the main dinner table and provided with their dinner. There is some suggestion in witness statements that Child A was not the only child at the table. The case examiners are satisfied that this would not appear to be in keeping with Child A's care plan. However, the case examiners noted that witnesses are clear that it was Person A that took Child A to this table for their meal and, therefore, the social worker was not responsible for this initial departure from the care plan.

The available evidence suggests that the social worker offered to sit with Child A, providing Person A an opportunity to manage some medication in a small office near the

dining space. The case examiners observed that it is agreed by all parties that the social worker did not move Child A to their preferred small table, or allow Child A to move themselves away from the main dinner table. The case examiners consider, therefore, that the social worker may have maintained a departure from the care plan, by keeping Child A at the main dinner table.

Witness statements are also broadly in consensus that Child A was upset and distressed, both whilst sat with Person A at the table, and whilst sat with the social worker. There are some differences in view as to how consistent Child A's presentation was, with some witnesses describing continual crying and distress, and others describing more cyclical presentation between periods of distress and periods of calm. There is no evidence that might suggest the social worker implemented methods outlined in Child A's care plan to soothe Child A; for example by providing access to PECS symbols, or Child A's blankie or dummy. The case examiners consider, therefore, that these elements of Child A's care plan may also not have been followed.

In light of the above, there is a realistic prospect of regulatory concern 1a being found proven.

**b. Inappropriately restrained them for an extended period.**

As outlined above, there is consensus in witness statements that the social worker did not move Child A to their preferred small table, or allow Child A to move themselves away from the main dinner table. As to how Child A was kept at the table, a summary of witness statements is provided below:

- During local interview, the social worker stated that they believed Child A had wanted to sit at the main dinner table. The social worker reported that they had sat to the side of Child A at the table, and Child A had started to eat. The social worker stated that Child A then started to get up, and the social worker put their hand on Child A and said that it was fine to sit down for dinner. The social worker was clear that they had gently put their hand on Child A's tummy, and they did not hold or pin Child A back. The social worker felt that Child A could have moved at any time, and had only been wriggling a bit. The social worker felt it became a bit of a game to the child.
- Person A reported in interview that they had observed the social worker stroking Child A's back and hair, trying to reassure them. Person A was then in the office sorting some medication, and could hear Child A cycling between periods of crying and periods of calm. Upon finishing their task, Person A observed that Child A "cycled back up again" and was rocking vigorously in their chair. Person A reported that they sat with Child A and the social worker, and held the chair leg to prevent it falling over. Subsequently, Person E (a manager) entered the room and

instructed both the social worker and Person A to let go of Child A, as prolonged restraint was not acceptable.

- Person B reported that Person A had been sat with Child A, with their arm around them. Person B reported that they felt angry about this. Person B stated that the social worker then said they would take over, sat down with Child A and the social worker put their arm around the child. Person B stated that Child A was screaming and crying and, when Person E walked in, Child A was hyperventilating. Person B reported that as soon as the social worker heard the door (as Person E entered), the social worker removed their arm from Child A's chest.
- Person C reported that they observed the social worker sat with Child A, holding the child with their arm across, preventing the child getting down from the table. Person C reported that Child A was distressed and Person C felt uncomfortable with the situation. Person C reported that this went on for about ten minutes, before Person E came down.
- Person D reported that Child A had been "kicking off", crying and screaming at the table. Person D left the room and when they returned, Child A was calmer, but not completely calm. They recalled the social worker having been sat off to one side of Child A. Person D did not comment on the restraint of Child A.
- Person E (a manager) reported that they had been upstairs, and when they came down and entered the dining space, they saw Child A, Person A and the social worker at the top end of the dinner table. Person E stated that they saw the social worker had their arms wrapped around Child A, and Child A was really distressed. Person E stated that they told the social worker to let go of Child A and questioned the need to use restraint.

The case examiners are satisfied that there is a general consistency across witness statements to suggest that the social worker had held their arm across or on Child A, and that this may have prevented Child A from leaving their seat at the main dinner table. There is also general consensus that Child A was distressed, though there are some variances in whether this was consistent or cyclical, with periods of calm.

The case examiners have had sight of an extract from relevant regulatory guidance, which was quoted within a local investigatory report. The extract is replicated below:

*1). Restraint includes physical restraint techniques that involve using force. 9.42 Restraint also includes restricting a child's liberty of movement. This includes, for example, changes to the physical environment of the home (such as using high door handles) and removal of physical aids (such as turning off a child's electric wheelchair). Restrictions such as these, and all other restrictions of liberty of movement, should be recorded as restraint. 17. Some*

*children, perhaps due to impairment or disability, may not offer any resistance, but such measures should still constitute a restraint.*

During local proceedings, it was recorded that, in the investigating officer's view, Child A's liberty of movement was restricted and, therefore, Child A's continued presence at the table could be considered to be the result of restraint.

The case examiners are not bound by local findings, but have independently considered the available definition, and agree that witness statements would suggest Child A's liberty of movement was restricted by the social worker, and that this may constitute restraint.

The case examiners are also satisfied that:

- The available evidence, including the social worker's own account of events, would suggest that the social worker held their arm across Child A for either a single extended period of time, or intermittently over an extended period of time
- Adjudicators could consider either iteration to represent restraint over an extended period
- Adjudicators may find that this restraint was inappropriate, with reference to the following key points:
  - The extended period in which it appears restraint was implemented (either as a single instance, or intermittent)
  - In light of evidence from Person E (a manager), who felt the restraint was not warranted and it was unacceptable
  - In light of evidence from Persons B and C who felt uncomfortable and upset with the social worker's approach
  - In light of the consistency of evidence that Child A was distressed

Accordingly, there is a realistic prospect of regulatory concern 1b being found proven.

## **2. You did not maintain full, accurate and/or timely case records.**

The case examiners noted that local investigation found that the quality of recordings made by the social worker, in respect of events set out in regulatory concern 1, was poor and not reflective of the events described by witnesses. It was found that a handwritten log, typed log and ABC form (Antecedents, Behaviour, Consequences) failed to capture the severity of the incident and the impact on Child A. Further, it was found that the social worker was instructed to record the incident by Person E (a manager) by 3 November 2022, but the ABC form was not completed until 4 November 2022.

The case examiners are not bound by local findings, and must independently assess the available evidence. In this case, however, the case examiners' ability to do so is hampered by poor quality of evidence in respect of the social worker's handwritten and typed logs. The case examiners considered that the evidence in respect of both is difficult to read and understand, perhaps due to the way in which the documents have been scanned. As a result, the case examiners considered that they must focus their consideration of fullness and accuracy on just the ABC form, which is clearly scanned and legible.

Having reviewed the ABC form, the case examiners are satisfied that adjudicators may consider it to be incomplete and inaccurate. Notably, the form does not mention any use of restraint, or even that the social worker had held their hand/arm on Child A, or that Child A was sat at and kept at the main dinner table. Instead, it simply states that Person E (the manager) had said "let go". The form also does not suggest that Child A was

distressed, instead stating that Child A's behaviour was mixed, "one minute [they were] attacking [redacted], the next [they were] also asking for a cuddle and reassurance".

With regards to timeliness, the case examiners were concerned by the number of significant discrepancies in witness statements, as to how and when the social worker was asked to complete records, and as to how and when these were received. In the case examiners' view, there isn't a single consistent narrative available to confirm whether the social worker had been asked to complete an ABC form prior to 4 November 2022, which matches with the date provided by the social worker on the document. With regards to logs, the available evidence would appear to suggest that a handwritten log was produced on 2 November 2022, but there is some confusion as to when it was then typed up. In the case examiners' view, there is therefore insufficient clear or compelling evidence to suggest the social worker's record keeping was not timely.

In light of the above, the case examiners are satisfied that there is a realistic prospect of regulatory concern 2 being found proven, but only in respect of records being full and accurate. For clarity, the concern to be considered at the grounds stage is therefore:

*You did not maintain full or accurate case records.*

### Grounds

The case examiners are aware that there is no legal definition of misconduct, but it generally would consist of serious acts or omissions, which suggest a significant departure from what would be expected of the social worker in the circumstances. This can include conduct that takes place in the exercise of professional practice, and also conduct which occurs outside the exercise of professional practice, but calls into question the suitability of the person to work as a social worker.

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following standards, which were applicable at the time of the concerns.

#### Social Work England – Professional Standards (2019)

*As a social worker, I will:*

*1.7 Recognise and use responsibly, the power and authority I have when working with people, ensuring that my interventions are always necessary, the least intrusive, proportionate, and in people's best interests.*

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

*As a social worker, I will not:*

*5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.*

*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.*

#### Regulatory concern 1

Looking first at regulatory concern 1 (a and b), the case examiners are satisfied that inappropriate restraint may be considered by adjudicators to represent a departure from professional standards 1.7, 5.1 and 5.2.

The public can legitimately expect that social workers will use their power and authority responsibly, and ensure that any action they take is necessary in the circumstances. This is particularly important where action is physical, such as the use of restraint, as there is a risk of both physical and emotional harm. In this case, there is evidence to suggest that Child A experienced significant distress, which made a number of witnesses feel uncomfortable. The case examiners are satisfied that this may be considered harm.

The case examiners are also mindful that Child A had a care plan in place, which provided methods through which Child A could be supported if upset. There is evidence to suggest the social worker did not utilise these methods, instead opting to restrain Child A. The case examiners consider that this may suggest the social worker did not use the least intrusive and proportionate intervention in the circumstances.

In light of the above, the case examiners are satisfied that adjudicators may consider the social worker's alleged conduct, in respect of regulatory concern 1 (a and b), to represent a significant departure from the standards. Accordingly, for regulatory concern 1 (a and b), there is a realistic prospect of adjudicators determining that the statutory ground of misconduct is engaged.

#### Regulatory concern 2

The case examiners are mindful of the importance of full and accurate record keeping, which helps to ensure that there are documented reasons for decisions and actions taken, and to help provide a continuity of support.

The case examiners are satisfied that incomplete and inaccurate record keeping may be considered by adjudicators to represent a departure from professional standard 3.11.

The case examiners are mindful that an isolated incident, such as this, might not normally be considered sufficiently serious to amount to a significant departure from the standards, and therefore misconduct. However, given the record in question in this case (an ABC form) related to the use of allegedly inappropriate restraint, the case examiners



consider that adjudicators may determine that an absence of full and accurate information is particularly serious. This is because accurate recording of such incidents is essential, in order for reasoned consideration to be given to whether the use of restraint was justified and appropriate in the circumstances, and so that decision making can be understood.

In light of the above, the case examiners are satisfied that adjudicators may consider the social worker's alleged conduct, in respect of regulatory concern 2, to represent a significant departure from the standards. Accordingly, for regulatory concern 2, there is a realistic prospect of adjudicators determining that the statutory ground of misconduct is engaged.

### Impairment

Assessment of impairment consists of two elements:

1. The personal element, established via an assessment of the risk of repetition.
2. The public element, established through consideration of whether a finding of impairment might be required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers.

### Personal element

With regards to the concerns before the regulator, the case examiners have given thought to their guidance, and they note that they should give consideration to whether the matters before the regulator are easily remediable, and whether the social worker has demonstrated insight and/or conducted remediation to the effect that the risk of repetition is highly unlikely.

### Whether the conduct can be easily remedied

The case examiners are satisfied that the alleged conduct in this case could be remedied through completion of appropriate training in respect of restraint, care plans and record keeping. The case examiners would also expect to see evidence of appropriate reflection on the alleged conduct, on the impact that it may have had on Child A, and on what the social worker should have done differently.

### Insight and remediation

The case examiners' ability to assess the social worker's insight and remediation is somewhat limited in this case, as the social worker has made clear to the regulator that they have now retired and do not intend to fully engage with fitness to practise

proceedings. The social worker has therefore not provided submissions, nor have they engaged with any relevant training, given they have now retired.

Having reviewed local disciplinary files, the case examiners noted that although the social worker did not accept all concerns raised by their former employer, they did indicate in interview that they accept that they could have acted differently on 2 November 2022. The case examiners did not observe any evidence, however, to suggest the social worker had reflected during local proceedings on the distress that Child A had experienced as a result of the alleged conduct.

#### Risk of repetition

In light of the limited evidence available of insight and remediation, the case examiners can only conclude that a risk of repetition remains.

#### **Public element**

The case examiners have next considered whether the social worker's actions have the potential to undermine public confidence in the social work profession, or the maintenance of proper standards for social workers.

As the case examiners have outlined at the grounds stage, they consider the available evidence to suggest that the social worker's alleged conduct may have caused considerable distress and harm to Child A. Further, the social worker's alleged failure to complete full and accurate records of the incident is of significant concern, particularly given the gravity of what is alleged to have occurred.

The case examiners consider that public confidence could be severely undermined if a finding of impairment were not to be made in this case, particularly given the limited evidence before the regulator of insight and remediation.

In light of the above, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is 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

#### Conflict in evidence

As the case examiners have outlined at the facts stage, there are some discrepancies in witness statements as to the frequency / duration of alleged restraint, the manner in which restraint was delivered, and the consistency of Child A's distress. However, in the case examiners' view, these conflicts are not necessarily material. This is because the case examiners are satisfied that:

- Either interpretation of the frequency / duration of alleged restraint could amount to an 'extended period' as set out in regulatory concern 1b
- Although there are some differing witness views as to the way in which the social worker restrained Child A, the case examiners are satisfied that the social worker's own account could reasonably be considered to constitute inappropriate restraint in the circumstances. Witness accounts do not therefore need to be relied upon

- Although there are some differing witness views as to the consistency of Child A's distress, there is general consensus that Child A was distressed, and the case examiners consider this to be the key issue

In light of the above, the case examiners are satisfied that, in accordance with their guidance, a referral to hearing is not required in this case on the basis that there is no prospect that it would be necessary discrepancies to be resolved, nor would the time necessary to do so be proportionate to their importance.

#### Acceptance of key facts

The case examiners are mindful that they have not received any significant submissions from the social worker, and therefore the social worker has not yet made any admissions or disputes in respect of the regulatory concerns. However, in the case examiners' view, the available evidence is indicative of the social worker having accepted the broad nature of the remaining concerns during local investigatory proceedings.

The case examiners consider that it would be appropriate and proportionate to therefore offer the social worker opportunity to review the case examiners' decision, and to consider whether they can accept all the key facts (i.e. regulatory concerns 1a, 1b and 2). It would be open to the social worker to request a hearing, if they wished for the facts of this case to be further considered in person.

In the interests of fairness, the case examiners note that there is some evidence to suggest not all witnesses may agree to attend a hearing. Whilst this may, in principle, affect any findings at a hearing, the case examiners have made clear that their view of the concerns is not solely reliant on witness evidence. The case examiners also note that the regulator has not yet taken all steps to support witnesses to give evidence.

#### The wider public interest

The case examiners are satisfied that although the concerns in this case are serious, they are not so serious that a hearing would be required to maintain public confidence in the profession, or to uphold the professional standards of social workers. This is because an accepted disposal outcome would provide a published outcome on the regulator's website, which would explain the circumstances of the case and the views of the case examiners on the issues of concern. The case examiners are satisfied that this would be sufficient to satisfy the wider public interest.

#### Conclusions

The case examiners are satisfied that it is not in the public interest to refer this case to a hearing, and the matter can instead be resolved via the accepted disposal process.

Accepted disposal could only be implemented if the social worker were to formally declare their acceptance of the key facts and impairment. It would be open to the social worker to request a hearing if they disagreed on either element, and wished to explore the matter further with adjudicators.

## Accepted disposal

| Case outcome      |                                                                                                                                                                                                                                                                                                                                                 |                                     |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| Proposed outcome  | No further action                                                                                                                                                                                                                                                                                                                               | <input type="checkbox"/>            |
|                   | Advice                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/>            |
|                   | Warning order                                                                                                                                                                                                                                                                                                                                   | <input type="checkbox"/>            |
|                   | Conditions of practice order                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/>            |
|                   | Suspension order                                                                                                                                                                                                                                                                                                                                | <input type="checkbox"/>            |
|                   | Removal order                                                                                                                                                                                                                                                                                                                                   | <input checked="" type="checkbox"/> |
| 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Having found that a realistic prospect the social worker's fitness to practise is currently impaired, the case examiners then considered what, if any, sanction they should propose in this case. The case examiners have taken into account the sanctions guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction.</p> <p>The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator, and upholding proper standards of conduct and behaviour.</p> <p>The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity.</p> <p>In determining the most appropriate and proportionate outcome in this case, the case examiners have considered the available options in ascending order of seriousness.</p> |

No further action, advice and warning

The case examiners consider that the outcomes of no further action, advice, and warning order would be insufficient in this case. In reaching this conclusion, they reminded themselves that the regulator's sanctions guidance is clear that all three outcomes, which offer no restriction to a social worker's practice, are not appropriate where a risk of repetition remains.

Conditions of practice order

With reference to the regulator's sanctions guidance, the case examiners note the following:

*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*

In the case examiners' view, a conditions of practice order could, in principle, be considered to represent an appropriate level of outcome in this case. This is because the case examiners are satisfied that the social worker has demonstrated some insight during local proceedings, albeit limited, and the issues in this case are capable of being remedied.

However, as outlined earlier in this report, the social worker has opted not to meaningfully engage with this fitness to practise investigation. The social worker has stated that they are now retired.

In light of the social worker's stated position, the case examiners cannot be confident that the social worker could or would comply with any conditions of practice they might set.

Suspension order

With reference to the regulator's sanctions guidance, the case examiners note the following:

*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*

As set out above, the case examiners are mindful that the social worker has opted not to fully engage with this fitness to practise investigation, indicating that they have retired. In light of the social worker's limited engagement, it appears likely that the social worker is not willing to resolve or remediate their conduct. Accordingly, the case examiners are satisfied that a suspension order would be insufficient to protect the public, or to safeguard public confidence.

#### Removal order

With reference to the regulator's sanctions guidance, the case examiners note that a removal order *"may be appropriate in cases involving social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future)"*.

In the case examiners' view, the combination of the factors set out above is sufficient to suggest that the social worker does not wish to practise in the future. Accordingly, the case examiners are satisfied that the social worker is unwilling and/or unable to remediate. The case examiners therefore consider that no other outcome than a removal order would be enough to protect the public, to maintain confidence in the profession, and to maintain proper professional standards for social workers.

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 case examiners have had sight of a number of emails between the social worker and the case examiner operations team, as summarised below.

- On 30 August 2024, the social worker stated *“I here by resign from the social register with immediate effect I believe the desicion was wrong but I am retired now and no longer interested in social care in any form”*.
- On 4 September 2024, the social worker stated *“I accept the decision of the panel but I must say in that job we don't always get it right it doesn't make us bad people but the way the system operates people are not allowed a second chance and it makes people feel like they are bad people we still look to blame some one.i won't be replying to any more emails in the future”*.
- On 10 September 2024, the social worker was asked to clarify their response to the accepted disposal proposal. The wording of three declarations were provided to the social worker to support them in formulating their response. The wording was taken from the regulator’s accepted disposal response form, where the three declarations are listed as options for response and social workers are asked to select the one that applies. The wording has been replicated below:
  - *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.*
  - *I have read the case examiners’ decision and the accepted disposal guide. I understand the terms of the proposed disposal of my fitness to practise case and wish to **reject** the proposal and proceed to a fitness to practise hearing.*
  - *I have read the case examiners’ decision and the accepted disposal guide. I understand the terms of the proposed disposal of my fitness to practise case and wish to **suggest amendments**.*
- On 10 September 2024, the social worker responded stating *“I accepted the findings”*.
- In light of the social worker’s response still not having been formulated as a declaration, the social worker was asked to confirm whether their declaration

would be as follows (again, wording taken from the accepted disposal response form):

- *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.*
- The social worker responded stating "Yes, I accept."

### Case examiners' response and final decision

The social worker's accepted disposal response has been considered by a new professional case examiner due to the absence of the first.

The case examiners turned their minds to the social worker's first email, and considered whether it might suggest the social worker does not accept the key facts or that their fitness to practise is impaired.

Whilst the case examiners recognised that the first email could, in theory, be considered to suggest that the social worker does not accept the decision that has been made, they were mindful that this was not the social worker's final response. The terms of acceptance have been made clear to the social worker on three occasions; first in the correspondence that accompanied the case examiners' proposal, and on two more occasions in direct email correspondence. The social worker has now been clear, having been asked to clarify their response, and having received the terms on more than one occasion, that they accept.

In accordance with their decision making guidance, the case examiners also considered whether either response might suggest the social worker has only agreed to a sanction to avoid a hearing. Having done so, the case examiners are satisfied that although it is plausible that the social worker is seeking to avoid a hearing, it would appear from the social worker's correspondence that this is primarily due to the social worker's retirement from social work. As such, it is not the case that the social worker has only accepted the proposed sanction of removal because they wish to avoid a hearing – instead, it would appear that the social worker simply no longer wishes to be registered.

Finally, the case examiners gave further consideration to the wider public interest, and were satisfied that it remains to be the case that the public interest in this case may be

fulfilled through the accepted disposal process. The case examiners therefore direct that the regulator enact a removal order.