

Case Examiner Decision

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FTPS-20523

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The role of the case examiners

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

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

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

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

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

Decision summary

Decision summary	
Preliminary outcome	24 April 2024
	Accepted disposal proposed - removal order
Final outcome	26 April 2024
	Accepted disposal - removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1, 2 3a and 4 being found proven by the adjudicators. [REDACTED]
[REDACTED]
[REDACTED] There is a realistic prospect of regulatory concerns 1, 2, 3a and 4 being found to amount to the statutory grounds of misconduct.
2. For regulatory concerns 1, 2, 3a and 4, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired. The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and determined that the case could be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker be notified of their intention to resolve the case by way of 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.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, Sefton Council.
Date the complaint was received	24 March 2022
Complaint summary	The concerns were received from the social worker's former employer following a complaint to the employer from a service user. The complainant advised that they received a phone call on 18 August 2021, explaining that their case was closed, however the service user advised that they had never met the social worker, had any visits from them or given permission for their children's information to be shared with other agencies. Upon further investigation, it was noted that the social worker confirmed they had not completed the visits as recorded to the service user and that the children and family assessment referenced a previous Multi Agency Service Hub (MASH) enquiry. The social worker left their role in January 2022.

Regulatory concerns

Whilst working as a registered social worker, between March and July 2021:

1. You falsified records for Family M in that you recorded visits to this family on four occasions which did not take place.
2. You informed Mrs W that the recordings were due to an error on the system when this was not the case.
3. You failed to complete an accurate Child and Family assessment for Family M in that you:
 - a. Completed the assessment without contacting the family or involving professionals for up to date information regarding the family.

4. Your actions at regulatory concerns 1-3 inclusive were dishonest.

The matters outlined in regulatory concerns (1), (2), (3a) and (3b) amount to the statutory grounds 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	☒
	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	☐

Requests for further information or submissions, or any other preliminary issues that have arisen

The case examiners have made the following amendments to the regulatory concerns:

- Regulatory concern 2 was originally listed as *'You acted dishonestly in that you informed Mrs W. that the recordings were due to an error on the system when this was not the case+, however, at a later date, advised the local authority that you did not know why you had incorrectly recorded the visits.'*
- The case examiners have amended this to *'You informed Mrs W. that the recordings were due to an error on the system when this was not the case'.*
- The case examiners consider that this amendment sets out more clearly the alleged conduct.

The case examiners are satisfied that the amendments they have made are minor, and they therefore considered it to be unnecessary and disproportionate to delay consideration of the case further by seeking additional submissions from the social worker.



The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes ☒

No ☐

The case examiners have determined that there is a realistic prospect of regulatory concerns 1, 2, 3a and 4 being found proven, that those concerns could amount to the statutory grounds of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst working as a registered social worker, between March and July 2021:

1. You falsified records for Family M in that you recorded visits to this family on four occasions which did not take place.

The case examiners have seen the initial complaint letter from Mrs W dated 24 January 2022, in which they express their surprise to have been contacted by children's social care to be told that their children's case of 'Children in Need' was being closed. Mrs W stated that they were told that their children had been seen by the social worker on 3 March 2021, at their mother's address, on 12 May 2021, 1 June 2021 and 6 July 2021 at their home address.

The case examiners have seen case notes recorded for visits on 3 March, 13 May, 1 June and 6 July 2021. The case examiners note that there is a slight discrepancy in the dates of

the May meeting, however, they are satisfied that these are the visits which Mrs W is referring to.

The case examiners also note that the social worker in their supervisions with their manager on 17 February 2021 has discussed this family and the narrative from the social worker presents as if the social worker has completed work with the family.

The case examiners note in Mrs W's complaint letter, the following, *'let me be abundantly clear here, I have never met or spoken to a [social worker], neither has my mother and neither have my children. I have never undertaken an initial assessment, nor have I ever given permission for the details of my children or I to be shared amongst other agencies'*.

Within the Local Authority Designated Officer (LADO) referral dated 25 March 2022, the social worker's manager has recorded a conversation with the social worker on 23 March 2022, in which the social worker is recorded as admitting that they never made contact with the family, had never spoken to the mother or grandmother and had never contacted any professionals in relation to the children and had never seen the children.

In their initial submissions to the regulator, the social worker has accepted this regulatory concern.

The case examiners are satisfied there is a realistic prospect of adjudicators finding this concern proven.

2. You informed Mrs W. that the recordings were due to an error on the system when this was not the case.

The case examiners have seen a complaint letter from Mrs W dated 24 January 2022, in which Mrs W states that the social worker contacted Mrs W on 24 August 2021, after Mrs W had been leaving messages for them. Mrs W states that the social worker *'explained to me that there had been an error on the system, although they went into no further details about how or what had happened. [Social worker] verbally confirmed that they agreed that my family had never been seen and they promised to rectify the situation and personally send me a letter confirming my children had never been in CIN'*.

The case examiners have seen a LADO referral on 25 March 2022 made by the social worker's manager. The manager within the referral states they had a conversation with the social worker on 23 March 2022 regarding the complaint. The manager records, *'[Social worker] admitted that they had never made contact with the family, had never spoken to mother or grandmother but did have one conversation with father. [Social worker] was asked why they recorded 4 visits on the child's record when the visits had not taken place and [social worker] responded, 'all I can say is that I do not know''*.

The evidence suggests that the visits which were not recorded were not due to an error on the system and the social worker has acknowledged this. The case examiners note that the social worker stated to their manager that they have never contacted Mrs W.

However, it appears that Mrs W has gained this information from someone and they state that this was the social worker. The social worker in their initial submissions has accepted this.

The case examiners are satisfied there is a realistic prospect of adjudicators finding this concern proven.

3. You failed to complete an accurate Child and Family assessment for Family M in that you:

a. Completed the assessment without contacting the family or involving professionals for up to date information regarding the family.

The case examiners have had sight of the Child and Family Assessment document in question, that is detailed as being written by the social worker. There is lots of detail relating to Family M, and the content is such that it reads as though the social worker has been actively involved with the family, and has gained the views of other professionals.

The case examiners have seen the LADO referral dated 25 March 2022, in which the social worker's manager has recorded, '*[social worker] stated that they took the information from the MASH enquiry and had not contacted any professionals or undertaken an assessment visit*'.

The case examiners have also seen the complaint letter from Mrs W dated 24 January 2022, stating that the social worker had never met them or their children.

Given that the document gives the impression that the social had been in contact with the family and other professionals, whilst the evidence suggests this not to be the case, if proven, the Child and Family assessment would be considered inaccurate.

The social worker in their initial submissions to the regulator has accepted this concern.

The case examiners are satisfied there is a realistic prospect of adjudicators finding this part of the concern proven.

b. [REDACTED]

[REDACTED]

The case examiners are satisfied there is no realistic prospect of adjudicators finding this part of the concern proven.

4. Your actions at regulatory concerns 1-3 inclusive were dishonest.

When considering if this may amount to dishonesty, the case examiners have applied two tests, in line with relevant case law. Firstly, they have assessed the evidence to establish what adjudicators may determine the social worker's actual state of knowledge or belief was at the relevant time (the subjective test). Secondly, they have considered whether the social worker's conduct could be deemed as dishonest by the standards of ordinary, decent people (the objective test).

The case examiners have seen documents from the social worker's employer in which the social worker has admitted the concerns raised against them, but provided no explanation. Within their initial submissions to the regulator, the social worker has accepted the concerns. The case examiners have therefore concluded that the social worker would have been aware that by recording visits that did not take place and basing an assessment on information which was recorded by other professionals, rather than seeing the family themselves, would be dishonest. The social worker has provided no explanation for their actions. The evidence suggests that at the time of their alleged conduct, they were aware that by making false recordings, they were acting dishonestly.

In regard to the objective test, the case examiners consider that ordinary decent members of the public would consider a social worker recording 4 visits to a family, when they had not taken place, then completing an assessment based on these false visits, would view this conduct as dishonest.

The case examiners are satisfied there is a realistic prospect of adjudicators finding this concern proven.

Grounds

Misconduct

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

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following standards, which were applicable at the time of the concerns, namely Social Work England Professional Standards (2019).

The case examiners consider that the following Social Work England standards may have been breached:

As a social worker I will:

2.1 Be open, honest, reliable and fair.

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:

5.2 Behave in a way that would bring into question my suitability to work as a social worker whilst at work, or outside of work.

5.3 Falsify records or condone this by others.

The case examiners are aware that falling short of the standards may not always amount to misconduct. However, adjudicators in this instance may determine that the threshold for misconduct has been reached. The case examiners note the adjudicators may be concerned that not only has the social worker allegedly recorded false visits, but they are also alleged to have completed assessments based on out of date information and the alleged visits, which did not take place. This has left children within a family, where there was a potential risk of harm identified, without the necessary support and intervention

from children's social care due to the lack of visits and assessments carried out with the family. The case examiners note in particular that concerns were raised in respect of Mrs W's significant deterioration in mental health and alcohol addiction whilst being the sole carer of their children at the time of the referral. The social worker's alleged actions mean that these children did not receive a service and were left at potential risk of significant harm. Further, other professionals would have been led to believe, by the social worker's records, that the children had been seen, and therefore corrective action would not have been deemed necessary, until a much later date when the concerns were raised. Taken together, adjudicators may view the alleged conduct as very serious.

Where it is alleged that a social worker has not kept accurate records and is alleged to have falsified these records, this would not align with Social Work England standards 2.1, 3.11, 5.2 and 5.3.

Where it is alleged that a social worker has acted dishonestly, by subsequently providing their manager with inaccurate information as to work they had carried out on their caseload, this would not align with Social Work England standards 2.1 and 5.2.

If the matters were to be found proven, the case examiners conclude the conduct described is likely to suggest a significant departure from the professional standards detailed above.

The case examiners are satisfied there is a realistic prospect of adjudicators finding these matters amount to the statutory ground of misconduct.

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 note that it is difficult to remediate alleged conduct which arises from attitudinal or character flaws such as dishonesty and breaches of trust or abuse of position, although a social worker may at least attempt remediation by reflecting upon their conduct and trying to develop and demonstrate insight.

The social worker initially provided submissions to the regulator, admitting the alleged conduct and apologising '*for the unacceptable issues raised*'. However, since this date, the social worker has not engaged with the regulator. The social worker did indicate that they

were struggling with their mental health, however they have provided no further detail to the regulator.

The case examiners are empathetic to the social worker's circumstances, however due to their non-engagement with the regulator, the case examiners' ability to assess the social worker's insight is limited.

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

The social worker has been on an interim suspension order since 26 August 2022, therefore they have not been able to work since that time. The case examiners have seen a positive reference from one employer prior to the interim suspension order being raised.

In the absence of any insight or remediation, and taking into account the potential attitudinal concerns in this case, 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 safeguard children, in that they have not visited children, recorded false visits and assessment with children and alleged to have been dishonest about what work they have completed to their manager.

Dishonest conduct 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 noted that the social worker has not explicitly indicated to the regulator 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 note that the guidance states the social worker must accept the matter of impairment at the point of *concluding* the case and are of the view that this does not prevent them offering accepted disposal prior to this. The case examiners consider that it is reasonable to offer accepted disposal in this case because:

- There is no conflict in evidence in this case and the social worker accepts the facts.
- 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 accepted disposal process will provide the social worker an opportunity to review the case examiners reasoning on impairment and reflect on whether they are able to accept a

finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.

- The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

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 consider a sanction, the case examiners have considered mitigating and aggravating factors in this case: Mitigating - The social worker has accepted all of the relevant facts and expressed remorse for their alleged conduct. Aggravating - The social worker has shown no insight into the alleged conduct, and the risk of repletion is high.

- The alleged conduct involves dishonesty where the evidence suggests that this was persistent and concealed, as the social worker is alleged to have recorded four visits to a family over a five month period and they have provided information to their manager that suggested work was ongoing with the family. This was not discovered for another month, when the family were contacted, and the alleged conduct was discovered.
- The social worker has been subject to an interim suspension order since August 2022, however since this time they have not engaged with the regulator and have shown no willingness to remediate their practice.

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

No further action, advice or warning:

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. Whilst the guidance advises that these outcomes may be considered where there are mitigating factors, the case examiners are satisfied that in this case, given the social worker's alleged dishonesty, such outcomes remain inappropriate.

Conditions of practice order:

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 dishonesty, 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 provided any submissions and has not engaged with the regulator. The case examiners note the findings of the last interim order review panel, who found there was an *'apparent lack of evidence of insight'* and *'[social worker]'s failure to engage with the regulatory process raises significant doubt as to whether they would comply with any conditions'*. Whilst the social worker accepted the concerns and indicated at the early stages of the fitness to practise process that they would be willing to remediate as they stated, *'I will accept responsibility for the outcome of actions taken as deemed suitable'*, they have shown no willingness to remediate in the 20 months since the interim suspension order has been in place.

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 persistent dishonesty, there is no other outcome available to them that would provide the level of assurance needed in respect of these three criteria.

The case examiners would note again that the social worker has had 20 months in which to engage with the regulator and has not provided any evidence of insight or willingness to remediate their practice in this time. The alleged conduct was very serious as this involved

persistent dishonesty. 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 25 April 2024 and confirmed that they had read and understood the terms of the proposed disposal and they accepted the proposal in full.

Case examiners' response and final decision

The case examiners were satisfied that the social worker had read and accepted the proposed disposal of a removal order in full.

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.

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