

Case Examiner Decision
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SW137591
FTPS-22287

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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:

1. the facts alleged could be found proven by adjudicators
2. adjudicators could find that one of the statutory grounds for impairment is engaged
3. 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	16 October 2024
	Accepted disposal proposed – warning order (1 year)
Final outcome	6 November 2024
	Accepted disposal – warning order (1 year)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concerns 1 and 2 being found to amount to the statutory ground of conviction or caution in the United Kingdom.
3. For regulatory concerns 1 and 2, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and 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 warning order of one year. The social worker accepted the case examiners' proposal, and this case has been concluded via the accepted disposal process.

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 **blue** will be redacted only from the published copy of the decision and will therefore be shared with the complainant in their copy. Text in **red** 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.

Manager 1	
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The complaint and our regulatory concerns

The initial complaint	
The complainant	The complaint was raised by the social worker's current employer, [REDACTED]
Date the complaint was received	26 April 2023
Complaint summary	The regulatory concerns as drafted accurately summarises the complaint.

Regulatory concerns
Whilst registered as a social worker, on 30 November 2022: RC1. You were convicted of fraudulently displaying a blue badge on 6 May 2022. RC2. You were convicted of knowingly or recklessly giving false information to investigators in respect of the identity of the driver on 17 May 2022. The matters outlined in regulatory concerns 1 and 2 amount to the statutory ground of conviction or caution in the United Kingdom for a criminal offence. Your fitness to practise is impaired by reason of conviction or caution in the United Kingdom for a criminal offence.

Preliminary issues

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

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes

☐

No

☐

The case examiners have determined that there is a realistic prospect of regulatory concerns 1 and 2 being found proven, that those concerns could amount to the statutory ground of caution or conviction within the United Kingdom, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts and Grounds

RC1. You were convicted of fraudulently displaying a blue badge on 6 May 2022.

RC2. You were convicted of knowingly or recklessly giving false information to investigators in respect of the identity of the driver on 17 May 2022.

The case examiners have had sight of court documents, which demonstrate that the social worker's convictions are accurately reflected in the drafting of regulatory concerns 1 and 2.

The case examiners are therefore satisfied that there is a realistic prospect of the adjudicators finding the facts for regulatory concerns 1 and 2 proven.

The case examiners have had sight of the evidence provided by the social worker and the complainant which provides context pertaining to the alleged practice failures. Whilst context is helpful, the regulator at this stage is focused: -

1. on the facts where there is a realistic prospect that adjudicators would find them proven
2. whether the social worker's conduct has engaged the statutory grounds
3. whether the social worker's alleged conduct breached the professional standards.

The case examiners take the view that there is evidence that the social worker was convicted of two separate offences. Furthermore, it could be considered that the social worker's conduct was not aligned to the relevant professional standard.

The case examiners consider that the following relevant Social Work England professional standard (2019) is applicable in this matter: -

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 while at work, or outside of work.

The case examiners are satisfied there is a realistic prospect of adjudicators finding the statutory ground of 'a conviction or caution in the United Kingdom for a criminal offence' is engaged for regulatory concerns 1 and 2.

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. The case examiners are required to consider whether the

matters before the regulator are easily remediable and whether the social worker has demonstrated insight and/or conducted remediation to mitigate the risk of repetition.

There are concerns that both these convictions refer to matters of dishonesty in that the social worker acted fraudulently. The case examiners take view that dishonesty is normally a character flaw and is therefore not easily remedied. However, they also note the context pertaining to these convictions. The case examiners consider under certain circumstances that individuals may [REDACTED] [REDACTED] act out of character.

Whether the conduct can be easily remedied

A social worker being convicted of two separate offences is a serious matter. The social worker has provided context regarding the circumstances surrounding the commission of these offences and their resulting conviction. The case examiners consider that remediation may, in theory, be possible if the social worker demonstrates genuine remorse and insight into the actions.

The case examiners take the view that the circumstances of this matter are unusual and unlikely to be repeated due to the social worker's remedial actions.

Insight and remediation

In order to consider the social worker's insight, the case examiners have noted the context. Both the social worker and Manager 1 have provided context which is useful in understanding the circumstances that led to the social worker's convictions. [REDACTED]



[REDACTED]

The case examiners note the steps the social worker has taken to minimise the risk of them coming before the courts for criminal matters. Their submissions clearly articulate their understanding of what went wrong and what they would do differently in the future. There is evidence of insight, remorse and a proactive approach to ensure that they do not become involved in criminal activity. They have fully engaged with their employer, taking advantage of support and reflective sessions and considered how they may handle stressful situations in the future.

The social worker does not specifically comment on whether they consider themselves to be personally impaired and whether they pose a risk to the public. However, in their submissions, the social worker reflects on their decision making.

[REDACTED]

[REDACTED]

The social worker was also in their Assessed and Support Year of Employment and stated that they panicked when being questioned about their conduct and led to them taking accountability, hoping it may alleviate some pressure and swiftly resolve the situation. They state;

“In hindsight I failed to grasp the implications of such a decision”.

Following reflection, the social worker states; -

“I came to understand the gravity of the situation at hand. This incident (or experience, as I would prefer to call it) has imparted in me the importance of being more assertive in my decision making and being open to seeking and receiving support from others “

The social worker has fully engaged in the fitness to practise investigation and has given an account of the circumstances at the time these offences occurred,

[REDACTED]

Risk of repetition

The case examiners note there is no previous history in respect of this social worker.

The case examiners have concluded that the social worker’s alleged conduct is remediable. The social worker has demonstrated remorse, insight and remediation.

The social worker's employer has provided positive testimonials regarding the social worker's conduct. The case examiners are reassured by the proactive approach the social worker has taken, which is helpful in mitigating future risk. The case examiners therefore conclude that the risk of repetition is low.

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.

Whilst the case examiners are mindful of the context in which these offences occurred, they note that the court convicted the social worker of the offences cited in the regulatory concerns. Despite the mitigation the social worker has presented, the case examiners cannot attempt to undermine the convictions and their potential impact on public confidence in the social worker and on the wider profession

The allegations relate to a convictions for fraudulently displaying a Blue Badge and providing false information in an effort to thwart an investigation.

These are serious allegations and the case examiners consider the conduct, if proven, has the potential to undermine public confidence in the profession. Such conduct is certainly a significant departure from professional standards. Social workers are expected to behave in a manner that adheres to professional standards of conduct, which includes being open, honest and having integrity.

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.

Accordingly, given the element of public interest, the case examiners are satisfied that there is a realistic prospect of the 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 specifically commented on whether they consider their fitness to practise to be currently impaired.

The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise.

As it is unclear regarding as to whether the social worker accepts impairment, case examiner guidance suggests that it may be appropriate for this matter to be referred to a hearing so that the public interest may be satisfied.

However, the case examiners consider it is appropriate to depart from that guidance in this instance. In reaching this conclusion, they noted the following:

- There is no conflict in evidence in this case and the social worker accepts the facts cited in the regulatory concerns.

- 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 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 to the social worker an opportunity to review the case examiners reasoning on impairment and reflect on whether they are able to accept a finding of impairment.

It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail. The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	1 year	

Reasoning
In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's sanctions guidance (December 2022) and reminded themselves that the purpose of sanction is not to punish the social worker but to protect the public and the wider public interest. In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness. <u>No further action</u> The case examiners determined that taking no further action was not appropriate in a case where a social worker has been convicted of two criminal offences. Taking no further action is not sufficient to mark the seriousness with which the case examiners view the social worker's alleged conduct and fails to safeguard the wider public interest. <u>Advice</u> The case examiners next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners note that advice is not required as the social worker has reflected and considered what may have contributed to their decision making. Albeit the social worker has taken proactive steps to manage the likelihood of repetition, the case examiners consider that advice

would not be sufficient to mark the seriousness with which they view the social worker's alleged conduct.

Warning Order

The case examiners next considered whether a warning order might be suitable, given that it would show clear disapproval of the social worker's conduct. The case examiners concluded there is a low risk of repetition in this case, and their guidance suggests that warnings may be appropriate in such circumstances. The case examiners determined that a warning was the most appropriate and proportionate response in this case and was the minimum necessary to protect the public and the wider public interest. A warning will serve as a signal that any repetition of the behaviour that led to the concerns is highly likely to result in a more severe sanction.

In considering the duration of the warning, the case examiners have had regard to the sanctions' guidance which states, *'1 year may be appropriate for an isolated incident of relatively low seriousness. In these cases, the primary objective of the warning is to highlight the professional standards expected of social workers. 3 years may be appropriate for more serious concerns. This helps to maintain public confidence and highlight the professional standards. The period also allows more time for the social worker to show that they have addressed any risk of repetition.'*

The case examiners note that the social worker has demonstrated insight and has been proactive in minimising their risk of reoffending. The social worker has outlined the strategies they have utilised to improve their decision making.

The case examiners do not consider under the circumstances and the context in which these offences arose that the social worker needs more time to develop further insight.

The case examiners therefore consider that a period of one year is appropriate in these circumstances and is the minimum necessary to maintain public confidence and to send a message to the public, the profession and the social worker about the standards expected from social workers. The case examiners considered that a three or five-year duration would be disproportionate and hence would be punitive.

Conditions of Practice, Suspension or Removal Order

The case examiners did go on to consider whether the next sanctions, conditions of practice and suspension, were more appropriate in this case. As the case examiners consider the risk of repetition is low, a conditions of practice order would not be necessary in this case and are more commonly suited to cases relating to health,

competence, or capability. The case examiners considered that suspension or removal from the register would be a disproportionate and punitive outcome.

To conclude, the case examiners have decided to propose to the social worker a warning order of one-year duration. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered **14 days** to respond. If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Content of the warning

The case examiners formally warn the social worker as follows:

Honesty and integrity are a fundamental aspect of social work practice. Social workers hold positions of power and trust. There is an expectation that they will conduct themselves in accordance with legislation. Being involved in court proceedings and being convicted of criminal offences undermines the public's confidence in the profession.

The case examiners remind you of the following Social Work England professional standards (2019):

As a social worker I will:

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.

You should demonstrate and practice these standards at all times. Any further matters brought to the attention of the regulator may lead to a more serious outcome.

Response from the social worker

The social worker submitted a completed accepted disposal response form on 2 November 2024, which included the following declaration:

"I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is

impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full”

Case examiners’ response and final decision

The case examiners have 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 instance may be fulfilled through the accepted disposal process. The case examiners therefore direct that the regulator enact a warning order, with a duration of 1 year.