

Case Examiner Decision
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FTPS-21930

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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	28 September 2024
	Accepted disposal proposed - warning order (3 years)
Final outcome	21 October 2024
	Accepted disposal - warning order (3 years)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of misconduct.
3. For regulatory concern 1, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and that the case could be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker be notified of their intention to resolve the case with a warning order of 3 years.

The social worker accepted this proposal and the terms in full on 21 October 2024.

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

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer.
Date the complaint was received	17 January 2023
Complaint summary	It is alleged the social worker did not take the appropriate safeguarding actions after observing bruises on a child.

Regulatory concerns

1. Whilst registered as a social worker between 14th October 2022 and 7th December 2022, you:

1.1 Did not safeguard Child A, after observing bruises on them on the 14th October 2022, when you: Did not telephone your Team Manager to discuss the concerns.

1.2 Did not inform the Emergency Duty Service until 15th October 2022.

Grounds of impairment

The matters outlined in regulatory concerns 1 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	☒
	No	☐
Are the case examiners satisfied that the social worker has had reasonable opportunity to make written representations to the investigators?	Yes	☒
	No	☐
Are the case examiners satisfied that they have all relevant evidence available to them, or that adequate attempts have been made to obtain evidence that is not available?	Yes	☒
	No	☐
Are the case examiners satisfied that it was not proportionate or necessary to offer the complainant the opportunity to provide final written representations; or that they were provided a reasonable opportunity to do so where required.	Yes	☒
	No	☐

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



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

Reasoning

Facts

1. Whilst registered as a social worker between 14th October 2022 and 7th December 2022, you:

1.2 Did not safeguard Child A, after observing bruises on them on the 14th October 2022, when you: Did not telephone your Team Manager to discuss the concerns.

It is agreed that the social worker visited Child A as the allocated social worker on 14 October 2022.

The case examiners have had sight of a case record documenting the social worker's visit. Within the case record the social worker details bruising seen on Child A and an explanation offered by parents as to how the bruises were caused.

The case record details that the social worker had '*some questions*' with regards to the explanation offered by Child A's parents regarding the bruising.

The case examiners note that the case record states that the social worker updated their team manager via text message following the visit to Child A.

The text messages sent by the social worker have been seen by the case examiners. Whilst they contain detail of Child A having bruises and parents' explanation, the texts omit to outline the social worker's concerns about the explanation given for the bruising.

The case examiners note that they have not been presented with any evidence to suggest the social worker made a telephone call to their manager.

The social worker, within their submissions to Social Work England, accept they made contact with their team manager via text message.

The complainant accepts there are no policy documents which would outline a social worker had to call their team manager to discuss concerns.

The social worker, whilst they made contact with their team manager, did not afford them the full outline of their concerns with regards to Child A. Given the social worker had concerns with regards to potential non-accidental injury to a child, it would be reasonable to expect them to call their team manager and discuss their concerns in full. It is accepted that this did not occur, following the visit to Child A on 14 October 2022 and therefore Child A was not fully safeguarded by the social worker.

Having considered the evidence available to them the case examiners are satisfied that there is a realistic prospect of regulatory concern 1.1 being found proven by adjudicators.

1.2 Did not inform the Emergency Duty Service until 15th October 2022.

The case examiners note that the text messages between the social worker and their team manager on 14 October 2022 agree that a Emergency Duty Service (EDS) should be arranged for Child A.

The case examiners have had sight of the EDS visit request form. The form was completed by the social worker and a visit was requested to Child A.

The form is dated 15 October 2022 by the social worker and the EDS manager also dates the form as 15 October 2024.

The social worker, within their submissions to Social Work England, accepts that they did not make the EDS request until 15 October 2022. They state they finished work late, showered and fell asleep due to feeling exhausted.

Having considered the evidence available to them the case examiners are satisfied that there is a realistic prospect of regulatory concern 1.2 being found proven by adjudicators.

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)

Be accountable for the quality of my practice and the decisions I make

As a social worker, I will:

3.8 Clarify where the accountability lies for delegated work and fulfil that responsibility when it lies with me.

3.9 Make sure that relevant colleagues and agencies are informed about identified risks and the outcomes and implications of assessments and decisions I make.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

Whilst the concern before the regulator, from the evidence available, would appear to be an isolated incident, due to the nature of the concern the case examiners consider it to be particularly serious. The evidence would suggest that the social worker failed to safeguard Child A, taking incomplete and delayed action to respond to injuries to Child A.

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

As such, the case examiners are satisfied there is a realistic prospect of adjudicators finding the matters amount to misconduct.

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 consider the conduct in relation the allegation is remediable, in that the social worker could demonstrate their understanding of what has gone wrong and what steps they could take to ensure this does not happen again, for example, by completing relevant associated training and/or a critical reflection addressing the concern raised.

Insight and remediation

The social worker has provided submissions to the regulator which, the case examiners consider, to provide a good level of insight and coupled with employment references, a good level of remediation.

The social worker has clearly accepted that their conduct fell short of what was expected: *'I continue to take full responsibility for my own actions across 14 and 15 October 2022 – I did so directly after the events took place, and this has not changed during the near two years now since those dates. I did not act in line with social work standards, do what was expected of me by my employers, nor follow the standards I set for myself as a social worker working with children and young people.'*

The social worker identifies, within their submissions, the potential impact on Child A and also comments on the wider implications of their conduct.

The case examiners are satisfied that the social worker has been able to identify the concerns identified in this case and what actions they would take if faced with the same situation now and in the future; this is backed by a positive employer reference detailing no concerns with the social worker's current practice.

In addition to the social worker's insight into their conduct, the social worker has also demonstrated their understanding of the importance of protecting the public and maintaining the public perception of social work as a profession.

'I wish to place on record that I am fully appreciative of this fitness to practise investigation. I recognise the importance of investigating when concerns regarding practise are raised, as was the case on 14 and 15 October 2022, and that by carrying out thorough investigations Social Work England ensure good, safe practise for children and families being supported by social workers. I continue to practise as a social worker who is fully committed to meeting the standards required of me within this role, and committed to learning how to continue to be a good, safe social worker for the children and families that I work with.'

Risk of repetition

Taking the above into account, the case examiners are of the view that the social worker has sufficiently demonstrated their understanding of the risk their alleged conduct posed.

In addition the case examiners have taken into account testimonials from the social worker's previous employer:

- *'...prior to this incident there have never been any indications of (the social worker) not responding appropriately to risk. He had always been conscientious as a social worker.'*
- *'I have no knowledge of him ever having done this previously and this wasn't usual for his character or work ethic.'*

The case examiners have also noted a positive employment reference from the social worker's current employer.

Having considered the evidence available to them, the case examiners consider the risk of repetition to be 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.

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The case examiners are of the view that a member of the public would be extremely concerned about an allegation that a social worker did not safeguard a child. The case examiners consider the allegation relates to fundamental tenets of social work including protecting vulnerable people from harm or abuse.

Adjudicators may consider there is potential risk of harm to the wider public in terms of their ability to trust and have confidence in a social worker who is alleged to have acted in this manner. An allegation of not safeguarding a child is serious and the case examiners are of the view that given the alleged conduct in this case, a failure to find impairment may undermine public confidence in the profession and fail to maintain the professional standards expected of social workers.

The case examiners consider there is a realistic prospect of adjudicators finding the social worker currently impaired.

The public interest

Decision summary

Is there a public interest in referring the case to a hearing?	Yes	☐
	No	☒

Referral criteria

Is there a conflict in the evidence that must be resolved at a hearing?	Yes	☐
	No	☒
Does the social worker dispute any or all of the key facts of the case?	Yes	☐
	No	☒
Is a hearing necessary to maintain public confidence in the profession, and/or to uphold the professional standards of social workers?	Yes	☐
	No	☒

Additional reasoning

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be 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 conclude that offering accepted disposal is proportionate for the following reasons:
- The social worker is clear that they accept that their conduct fell short of the standards expected of them.

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

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	3 years	

Reasoning
The case examiners are satisfied there is a realistic prospect of regulatory concern 1 being found proven by adjudicators. Furthermore, they have found a realistic prospect that the concern, if proven, would amount to the statutory ground of misconduct. The case examiners have also found a realistic prospect that adjudicators would find the social worker's fitness to practise is currently impaired. The case examiners have decided however, that it is not in the public interest to refer this matter to a final hearing. In considering the appropriate outcome in this case, the case examiners have had regard to Social Work England's sanctions guidance (2022) and reminded themselves that the purpose of a sanction is not to punish the social worker but to protect the public and the wider public interest. Furthermore, the guidance requires that decision makers select the least severe sanction necessary 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 sanctions in ascending order of seriousness. Firstly, the case examiners considered taking no further action but concluded this would not be appropriate in this instance as it would be insufficient to address the seriousness of the concern. Next, the case examiners considered whether offering advice would be sufficient. 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 are of the

view that issuing advice is not sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners then considered a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order. The case examiners are of the view a warning order is appropriate in that they consider the fitness to practise issue to be an isolated matter, have determined there is a low risk of repetition and consider the social worker has demonstrated sufficient insight and remediation.

As a further consideration, the case examiners turned their minds to the next two sanctions, conditions of practice and suspension. They note that conditions of practice orders are commonly applied in cases of lack of competence or ill health and therefore, the case examiners have concluded conditions were not suitable for this case. Further, there is positive testimony regarding the social worker's current employment.

Finally, the case examiners considered suspension. While they are of the view the concern represents a serious breach of the professional standards, they are of the view the social worker has demonstrated sufficient insight and remediation and therefore, suspension from the register would be a disproportionate and punitive outcome in this case.

The case examiners have considered the length of time for the published warning and consider 3 years to be proportionate in this case. In coming to this determination, they have taken into account the guidance and have applied it as follows:

- *'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.'* While an isolated incident, the case examiners did not consider it to be of relatively low seriousness given the nature of the concern is a key tenet of the profession.
- *'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.'* While the case examiners have determined there to be a low risk of repetition, they consider the conduct to be more serious.
- *'5 years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of practice.'* The case examiners considered this

to be an isolated incident, and while serious, not one that only marginally fell short of requiring a restrictive sanction

The case examiners have therefore, decided to propose to the social worker a warning order of 3 years 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 21 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 warn the social worker:

Social workers have a responsibility to respond to safeguarding concerns where a person may have suffered, or be at risk of suffering significant harm. It is imperative that they maintain focus on the person at risk of harm, ensuring safeguarding concerns are addressed in full, despite any competing demands.

The case examiners draw the social worker's attention to Social Work England Professional Standards and in particular:

Be accountable for the quality of my practice and the decisions I make

As a social worker, I will:

3.8 Clarify where the accountability lies for delegated work and fulfil that responsibility when it lies with me.

3.9 Make sure that relevant colleagues and agencies are informed about identified risks and the outcomes and implications of assessments and decisions I make.

3.12 Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.

Any matters of similar conduct brought to the attention of the regulator will likely result in a more serious outcome.

Response from the social worker

The social worker responded by email on 21 October 2024 and returned the accepted disposal response confirming: *'I have read the case examiners' decision and the accepted disposal guidance. I admit the key facts set out in the case examiners 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 concluded that the social worker's fitness to practise was likely to be found impaired but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning with a duration of three years and the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, the case examiners have considered again whether there would be a public interest in referring this matter to a public hearing. They remain of the view that this is unnecessary for the reasons set out earlier in the decision.

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, they remain of the view that an accepted disposal by way of a warning order of 3 years is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.