

Case Examiner Decision
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FTPS-23619

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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	26 February 2025
	Accepted disposal proposed - warning order (3 years)
Final outcome	11 March 2025
	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 ground of a conviction or caution in the United Kingdom for a criminal offence.
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 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 with warning order of 3 years; the social worker subsequently accepted this proposal.

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.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker.
Date the complaint was received	11 December 2023
Complaint summary	The social worker self-referred when they were charged with not providing a specimen of breath, whilst stopped by the police when suspected of driving whilst over the legal limit of alcohol. They attended court and pleaded guilty and were convicted of this offence. The social worker was working in Wales but was convicted in England.

Regulatory concerns

Whilst registered as a social worker you:

1. Were convicted on 19 December 2023 at Cheltenham Magistrates Court for the offence of fail to provide specimen for analysis.

Grounds of impairment:

The matter outlined at regulatory concern 1 amounts to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

By reason of a conviction or caution in the United Kingdom for a criminal offence your fitness to practise is impaired.

Preliminary issues

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

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

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 a caution or conviction in the United Kingdom for a criminal offence, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts and Grounds

Whilst registered as a social worker you:

1. Were convicted on 19 December 2023 at Cheltenham Magistrates Court for the offence of fail to provide specimen for analysis.

The case examiners have seen the social worker's initial self-referral, along with the MG3, three statements from police officers and the certificate of conviction from Cheltenham Magistrates' Court.

The police documentation states that the social worker was arrested following police officers, whilst attending to another matter, noticing a vehicle driving alongside a marked police van. The police officer notes that *'the vehicle was swerving towards and narrowly missing the rear of the marked police van'*. Following advice to the driver of the police van, the van moved in front of the vehicle, however *'the vehicle began to*

travel closely to the rear of the van and then randomly brake sharply'. The police activated their emergency equipment to bring the vehicle to a stop. One police officer described the social worker, as having a *'pungent smell of intoxicating liquor on his breath'* and *'appeared disorientated and was slurring his speech'*. A second officer described the social worker as *'slightly unsteady on his feet, slurring his words and I could smell intoxicating liquor on his breath. In my opinion I believed that [social worker] was drunk'*.

The social worker was asked to provide a specimen on several occasions at the roadside, however the social worker questioned this and was described as *'obstructive and refused to provide the specimen until he had his mobile phone so he could record what was going on'*. Despite then, obtaining their mobile, the social worker *'blew a short sharp breath, not enough for a reading'*. The social worker was given clear instructions that they needed to blow longer, and they were reminded that failure to successfully provide a specimen would lead to their arrest. However, the social worker was described as *'stalling the process and continued to argue about the need to carry out the roadside test'*. The social worker was given a final opportunity and refused to provide a sample.

Upon being transported to the police station, the social worker was again described as trying to stall the process as they were stating that they wanted to speak to a solicitor before going through the process. The social worker was given a thorough explanation of what was needed and the consequences of not complying. However, the social worker continued to *'only give short breathes of broken breathe specimens causing the procedure to fail'*. The social worker stated that, *'they were trying but he could not blow hard or long enough [REDACTED]'* The social worker was offered the opportunity a second time to provide a specimen but failed to do so.

The certificate of conviction dated 19 December 2023 states that the social worker was convicted for 'fail to provide a specimen for analysis -vehicle driver'.

The social worker in their submissions accepts this concern.

The evidence suggests that the social worker was convicted of the offence as set out in the regulatory concern.

The case examiners are satisfied there is a realistic prospect of adjudicators finding this concern proven. Furthermore, the case examiners are satisfied there is a realistic prospect of adjudicators finding that this amounts to the statutory ground of conviction or caution in the United Kingdom for a criminal offence.

Personal element of impairment

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

The social worker has shown remorse into their actions and did so from an early stage, as they self-referred to the regulator and has engaged in the regulatory process.

The social worker has shown some insight into their alleged conduct, albeit the case examiners consider that this is limited. The social worker recognises that their conduct had the potential to put people at risk of harm and also impact on the public's confidence in them and the profession. They state in their submissions, *'I would still like to say how much shame and at times self loathe I feel about the whole situation I placed myself, family, profession and others at risk'*. However, the social worker has provided no insight into what led to them acting in this manner, neither have they provided any reflections or insight into how they may avoid this in the future. The social worker states, *'lessons have and are being learnt into this process and hope for better ability to make better choices and decisions in future[sic]'*.

In terms of remediation, the case examiners note that the social worker was offered and took up the option of reducing their driving ban on completion of a drink awareness course, although this was not mandatory. The case examiners have seen confirmation that this has been completed. The case examiners note, however, that despite undertaking this course, the social worker has not provided any evidence of what they learnt from this course or again, how they may prevent a similar situation occurring in the future.

The case examiners have concluded that whilst the social worker has undertaken some remediation, their insight remains incomplete. Therefore, the case examiners are of the view that there is a risk of repetition.

Public element of impairment

The case examiners 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. 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, when assessing the public interest, have had regard to the drink and drug driving policy (December 2022) which guides the case examiners to consider aggravating and mitigating factor when assessing how seriously the public would view

the alleged conduct. In the absence of any aggravating factors, the guidance suggests that it would be unlikely that a finding of impairment or sanction would be imposed.

In this instance, the case examiners have identified the following aggravating factors:

- The social worker received a driving ban of 12 months, which was to be reduced by 3 months following the completion of a drink awareness course.
- Whilst no actual harm was caused, the evidence suggests that the social worker's driving placed other members of the public, including police officers, at a real risk of harm. Their driving was observed to be '*erratic*', whilst driving alongside two police vehicles containing a number of passengers. Furthermore, the descriptions of the social worker's presentation indicate that the social worker was drunk.
- The circumstances of the offence suggest the social worker was uncooperative with the police, refusing to provide a sample of breath for analysis on numerous occasions, as required by law. In this instance, the conviction relates to them not providing an evidential specimen; this would have prevented the police being able to determine the amount of alcohol in the social worker's breath while driving.

The case examiners have then considered the following mitigating factors:

- This evidence suggests that this was the social worker's first offence.
- The social worker has demonstrated remorse and some limited insight into their behaviour.
- The social worker has undertaken some remediation in the form of attending a drink awareness course, however there is no evidence of what learning they have taken from this.
- The social worker has no previous adverse fitness to practise history.

The case examiners remain concerned about what the social worker has learnt from the incident and as a result, they have concluded that there is a risk of repetition. Furthermore, they remind themselves that the social worker's actions had the potential to harm others.

The case examiners consider that members of the public may lack confidence in a social worker who, having been arrested as a result of driving erratically and suspected of driving under the influence of alcohol, subsequently failed to provide a specimen of breath when required to do so by law. The case examiners are of the view that, in the

circumstances of this case, a member of the public may be troubled to learn that a social worker had been allowed to practise without sanction from their regulator.

Furthermore, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

Taking account of all of the above, 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 carefully considered whether a referral to a hearing may be necessary in the public interest. They note the social worker has accepted the key facts.

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

- There is no conflict in evidence in this case and the social worker accepts the facts of the concern.
- The social worker is clear that they accept that their practice fell short of the standards expected of them. In their submissions to the regulator, the social worker stated, *'I take full responsibility over my actions at the time and am aware in reflection that I placed others at risk, as well as myself and profession and its reputation at question'*.

- The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest limb of impairment 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 hearing if they wish to explore the question of impairment in more detail.
- Whilst the case examiners in this instance have concluded that there is a risk of repetition, they are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order to satisfy the public that this risk is being managed without the need for this to be examined within a public hearing.
- The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

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

Interim order

An interim order may be necessary for protection of members of the public	Yes	☐
	No	☒
An interim order may be necessary in the best interests of the social worker	Yes	☐
	No	☒

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

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.

The case examiners considered taking no further action. They note paragraph 95 of the sanction's guidance which states, when decision makers find impairment, an outcome of 'no further action' is rare. Further, the case examiners are of the view that a conviction for failing to provide a specimen of breath, indicating a lack of cooperation with a lawful request by the police, is serious, and that taking no further action does not reflect their consideration of the public interest in this case.

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. However, the case examiners consider that advice would not be sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners next gave careful consideration to whether a warning order might be suitable, given that it would show clear disapproval of the social worker's conduct. The case examiners have concluded that there is a risk of repetition in this case, and

their sanctions guidance suggests that warnings may not be appropriate in such circumstances. The sanctions guidance suggests that a warning may be appropriate where the fitness to practise issues are isolated, there is a low risk of repetition, and the social worker has demonstrated insight. Furthermore, the guidance states that decision makers should consider issuing a warning order where they cannot formulate any appropriate or proportionate conditions of practice, and a suspension order would be disproportionate.

In this instance, the case examiners consider that the alleged conduct appears isolated in nature, and the social worker has demonstrated some insight. Whilst the case examiners consider that there is a risk of repetition, they note that the alleged conduct took place outside of the workplace and in the social worker's personal life, therefore conditions would not be appropriate. Furthermore, they consider that suspension would be a disproportionate sanction, given that the social worker has undertaken remediation and undertaken some reflection and engaged with the regulator, albeit they have not demonstrated what they have learnt from these activities. Therefore, 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. 5 years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of practice'.

The case examiners consider three years to be proportionate in this case 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. While the case examiners recognise that the matter is reported to be isolated, they do not consider that the matter to be one of 'relatively low seriousness', and they consider that the social worker requires additional time to fully address the risk of repetition. Therefore, three years will allow the social worker additional time to fully demonstrate that they have reflected and understand what led to the conduct and how they may act differently in the future to address the risk, and that they understand the importance of maintaining the professional standards expected of social workers at all times. The case

examiners do not consider that the matter fell marginally short of the need to restrict practice, and therefore five years would be disproportionate and punitive. To confirm, the case examiners are satisfied that a warning of three years duration is the proportionate sanction.

The case examiners did go on to consider whether the next sanctions, conditions of practice and suspension, were more appropriate in this case. As stated above, given the conduct occurred outside of the workplace, a conditions of practice order would not be necessary or appropriate in this case and is more commonly suited to cases relating to health, competence or capability. The case examiners considered that suspension from the register would also be a disproportionate and punitive outcome, where the social worker has started to demonstrate some insight.

To conclude, the case examiners have decided to propose to the social worker a warning order of three-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 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:

Failing to provide a specimen of breath for analysis is a serious criminal offence. The evidence also suggests that you may have been driving while over the prescribed limit for alcohol, and your decision to drive in this instance, demonstrated a serious lack of judgement. You put yourself and members of the public at risk of harm. Your subsequent decision, which led to your conviction for not providing a specimen demonstrates a further lack of judgement.

Your conviction could have an adverse effect on the public's confidence in you as a social worker. It may also damage the reputation of the social work profession.

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

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.

This conduct should not be repeated. Any further criminal offences or similar matters brought to the attention of the regulator are likely to result in a more serious outcome.

Response from the social worker

The social worker responded on 10 March 2025 and confirmed that they had read and understood the terms of the proposed disposal.

They confirmed that, 'I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full'.

Case examiners' response and final decision

The case examiners are satisfied that the social worker has read and accepted the proposed accepted disposal of a three year warning order. The case examiners have again considered the public interest in this matter and, as they have not been presented with any new evidence that might change their previous assessment, they are satisfied that it remains to be the case that the public interest in this case can be fulfilled through the accepted disposal process. The case examiners therefore direct that Social Work England implement a three year warning order.