

Case Examiner Decision
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SW21881
FTPS-21881

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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	01 August 2024
	Accepted disposal proposed - removal order
Final outcome	26 September 2024
	Accepted disposal agreed – removal order

Executive summary

The case examiners have reached the following conclusions:

- There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators. [REDACTED]
- [REDACTED]
- 2. There is a realistic prospect of regulatory concerns 1 and 2 being found to amount to the statutory ground of misconduct.
- 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 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 a removal order. The social worker then agreed to a removal order via accepted disposal.

The case examiners have considered all 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.

The complaint and our regulatory concerns

The initial complaint

The complainant	Self-referral by the social worker to their Social Work England case review officer.
Date the complaint was received	31 May 2022
Complaint summary	The social worker self-referred to Social Work England in May 2022 having been suspended by their employer; Redcar and Cleveland Borough Council (RCBC). Their employer (RCBC) had raised concerns with the social worker about their ability to practice after they had failed their 'Assessed Year in Practice'(ASYE); concerns were also raised about the social worker's alleged failure to disclose that they had been dismissed from their former employer together with issues relating to their prior ASYE status. This led to concerns relating to the social worker's honesty and probity.

Regulatory concerns and concerns recommended for closure

While registered as a social worker:

RC1 In / around August 2021, you did not disclose to Redcar and Cleveland Borough Council that you had been dismissed by your previous employer, Darlington Metropolitan Borough Council.

RC2 Your actions in RC1 were dishonest.

Grounds of impairment:

The matters outlined in regulatory concerns (RC1) and (RC2) amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of your 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 concerns 1 and 2 being found proven, that those concerns could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

While registered as a social worker:

RC1 In / around August 2021, you did not disclose to Redcar and Cleveland Borough Council (RCBC) that you had been dismissed by your previous employer, Darlington Metropolitan Borough Council (DBC).

The case examiners have not had sight of any primary evidence to inform them that the social worker was dismissed by DBC; they are reliant on information from the case investigation report which informs them of this. Correspondence in this evidence bundle from DBC states that the social worker was experiencing personal difficulties and challenges which had begun to impact their ability to undertake the job role; this resulted in a meeting being held with the social worker and their human resources department.

Information presented to the case examiners confirms that the social worker commenced employment at RCBC as a hospital social worker for adult social care from 16 August

2021. The RCBC investigation report states that it was identified that the social worker had been dismissed from DBC, whereas the social worker had informed RCBC that they had left of their own accord. A manager confirmed (via witness interview) that the social worker did not tell the interview panel that they had been dismissed by DBC and had told them they had left due to the amount of travelling to and from work. Another witness who had been on the social worker's interview panel for RCBC confirmed that the social worker *'did not divulge there had been issues in [their] previous post'*.

When the social worker was interviewed as part of the employer disciplinary investigation, they confirmed that on their application form for RCBC they said that they had left their previous role for a career change and (reduced) travelling. They said that when they applied to RCBC they were trying to *'forget about what had happened'*; [REDACTED]

[REDACTED] They accept that they *'thought selfishly'* and should have disclosed their dismissal. *'I had my own reasons for not telling RCBC why I had left Darlington. I should have been honest.'* They accept that they had been dismissed and they *'just wanted to put it all in the past which is why I didn't say anything.'* [REDACTED]

[REDACTED]

The case examiners have reviewed supervision notes from when the social worker was employed at RCBC. The content aligns with the above, confirming that the social worker made a disclosure to their manager on 17 February 2022, following which it was ascertained that the social worker had been dismissed by their previous employer. The evidence suggests to the case examiners that the social worker only disclosed their previous dismissal to their employer because of other matters [REDACTED]

[REDACTED] A 'timeline' which was submitted by the social worker to their employer's investigation confirms the chronology of events.

The case examiners have reviewed the original application form submitted by the social worker when they applied to RCBC. While they disclose their prior employer as DBC, under the section 'reasons for seeking to leave?', they state, 'career change'. Later, they also add 'personal reasons.' They also tick the box [yes] stating, 'by completing this form I declare that all the information on this application form is true and correct....'. The case examiners note that the social worker had selected the names and addresses of two referees, neither of whom were their previous employer; this is despite the application form requesting that one referee should have been their previous employer. In their employer's interview record form dated 01 June 2021, it is recorded that the social worker applied to RCBC to be 'closer to home'.

Following a careful review of the information available, the case examiners consider there to be cogent evidence to suggest that the social worker did not disclose their dismissal from DBC, to RCBC until February 2022, some eight months after their initial application. Further, they provided incorrect information with regards to their reasons for leaving their previous employer.

The case examiners therefore conclude a realistic prospect of the adjudicators finding that facts proven for regulatory concern 1.

RC2 Your actions in RC1 were dishonest.

The test in respect of dishonesty is as follows:

1. A subjective test to ascertain the actual state of the social worker's knowledge or belief at the time of the alleged conduct. The question is not whether the social worker's beliefs are reasonable, but whether they were genuinely held at that time.
2. Secondly, once the social worker's state of mind is established, whether the social worker's alleged conduct may be considered dishonest will be determined by applying the objective standards of ordinary decent people. There is no requirement for the social worker to appreciate that their conduct is, by the objective standards of ordinary decent people, dishonest.

The case examiners have first considered the subjective test. In the absence of final submissions by the social worker, the case examiners are reliant on the evidence that the social worker provided in their employer investigation interview, and on their assessment of the social worker's actions, in order to establish the social worker's knowledge and belief at the time of the alleged conduct. The case examiners have noted evidence which suggests that the social worker only self-disclosed their previous dismissal to RCBC once circumstances requiring them to inform their employer of other matters came to light; [REDACTED]

[REDACTED] The social worker also indicated that they purposefully failed to inform their employer of the reasons for their dismissal, knew their actions were wrong and accepted that they should have been 'honest'. They offered the following comments to their employer as reasons for their alleged dishonesty:

- They were trying to *'forget about what had happened'*.
- They *'thought selfishly'* and should have disclosed their dismissal.
- *'I had my own reasons for not telling RCBC why I had left Darlington. I should have been honest.'*
- They *'just wanted to put it all in the past which is why I didn't say anything.'*

In addition, the case examiners note that the social worker provided references that did not include their most recent employer when required to do so. The case examiners consider that this could be considered to suggest that the social worker purposefully avoided providing information that could lead to their previous dismissal being disclosed; this speaks to the social worker's state of mind at the time they supplied information suggesting that they may have been wilfully intending to deceive their new employer.

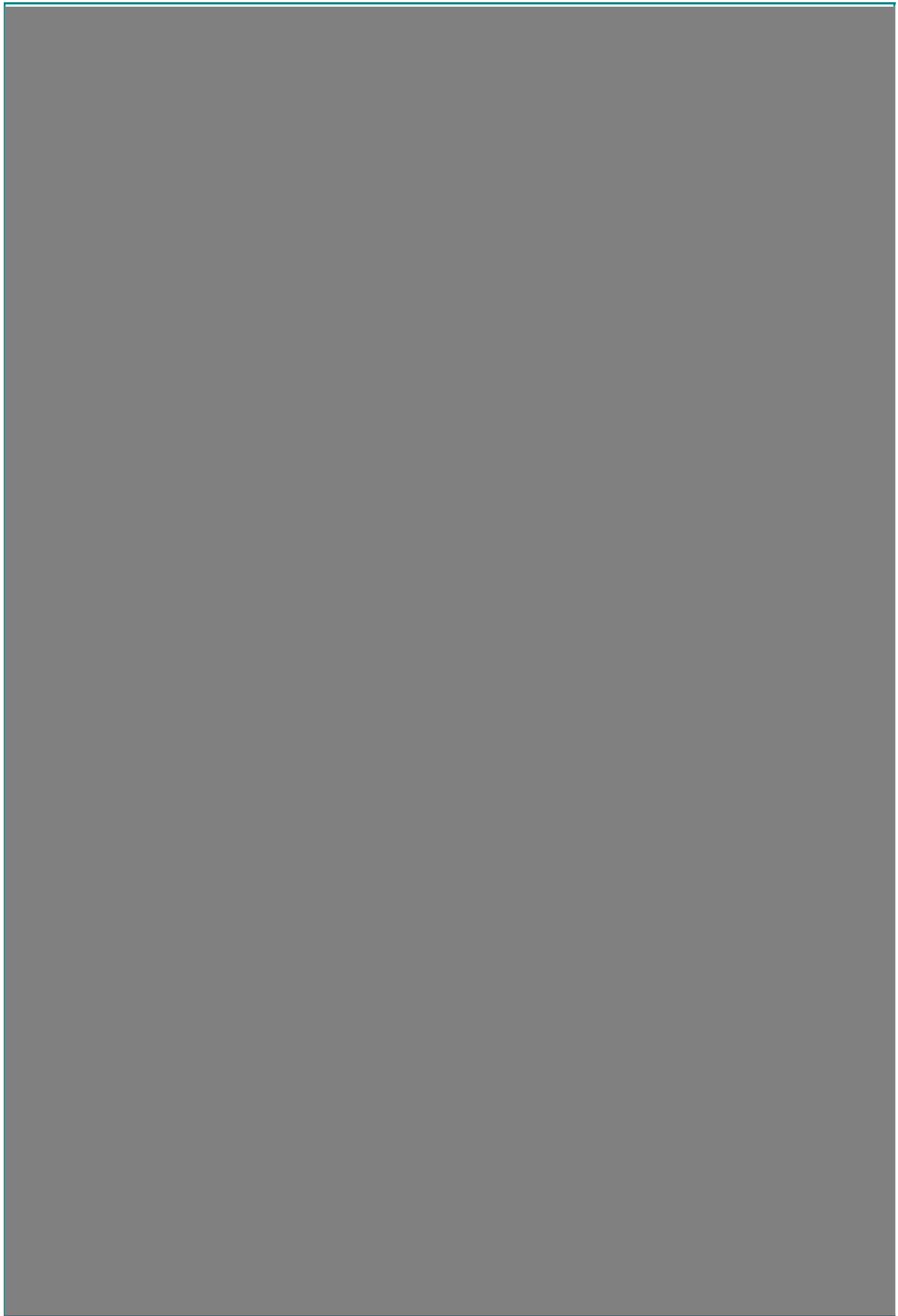
Regarding the subjective test, these comments would suggest to the case examiners that the social worker may have been in the full knowledge and belief that their actions were dishonest, having had an active intent to deceive their employer.

With regards to the objective test, an ordinary decent person would consider that any active intent to deceive their employer would meet the high bar required to amount to the threshold of dishonesty. The available evidence ranges from an early job application form which the case examiners consider contained knowingly false information, carefully selected references which appear to be designed to avoid employer contact with DBC, an interview record form falsely recording the reasons for leaving DBC, and a self-disclosure by the social worker that they should have been 'honest'. This is further aggravated by evidence which suggests that the social worker's acts of alleged dishonesty occurred over a substantial period, prior to June 2021 until the time of their final self-disclosures in February 2022.

Given such evidence, the case examiners believe that an ordinary decent member of the public would be likely to consider that the social worker may have been wilfully dishonest with the active intent to deceive their employer, over a prolonged time period.

Furthermore, it appears unlikely that the social worker would ever have disclosed this information to their employer, had they not been required to do so, due to other matters. As such a member of the public would be likely to consider that any mitigation on the part of the social worker through their own self-disclosure to be undermined.

With regards to the subject and objective tests for dishonesty, the case examiners conclude that both are met. **They therefore conclude a realistic prospect of the adjudicators finding that facts proven for regulatory concern 2.**



Grounds

Regulatory concerns with a realistic prospect of being proven: 1 and 2.

The matters outlined in regulatory concerns (RC1) and (RC2) have been presented to the case examiners as amounting to the statutory grounds of 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 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.

I will:

2.1 Be open, honest, reliable and fair.

With respect to standard 2.1, the case examiners consider there maybe a realistic prospect of establishing evidence to show that the social worker may have been dishonest in their failure to disclose their prior dismissal from DBC, to their new employer RCBC. If it were to be established that the social worker was not open or honest from the outset of their job application, then this would be a significant cause for concern.

3.1 Work within legal and ethical frameworks, using my professional authority and judgement appropriately.

The case examiners recognise that there is no specific requirement in the professional standards for an individual to disclose to a new employer that they have been dismissed

by a previous employer. However, if there is evidence to suggest that the social worker provided false information on their employment application form in relation to their reasons for leaving DBC, so being potentially dishonest, this would be in contravention of their professional standards, which set out the ethical framework and standards for social workers.

The case examiners consider these to be serious issues and are aware that where dishonesty is subsequently found proven, this is particularly serious. Guidance for social workers in relation to the professional standards set out that social workers are required to be open and honest with people, including when something goes wrong. Where they are not open and honest, it can put people at risk and may damage confidence in them as a social worker and the social work profession.

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 social worker's alleged dishonesty, their alleged failure to disclose their prior dismissal and more importantly, the circumstances and nature of their prior dismissal, would all lead to a significant breach of standard 5.2.

5.3 Falsify records or condone this by others.

The case examiners consider there to be evidence to suggest that the social worker submitted false statements in a pre-employment application record. This included careful manipulation and selection of referees, designed to enable their new employer to avoid direct contact with their former employer. This would represent a clear departure from standard 5.3.

These alleged actions together with the associated evidence, would lead the case examiners to conclude that the social worker's actions had the potential to result in a complete lack of trust and confidence in the social worker's integrity and professionalism. If subsequently found proven, the case examiners are of the view that the social worker's actions, as previously outlined, would represent a significant breach of standards 2.1, 3.1, 5.2 and 5.3.

The case examiners conclude the departure from the professional standards to be significant, serious and wide ranging. **They therefore conclude a realistic prospect of adjudicators making a finding of misconduct as a statutory ground.**

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 consider 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: Regulatory findings with respect to dishonesty are difficult to remediate. The nature of the alleged dishonesty in these matters has been prolonged over time, with evidence of alleged pre-planning and calculated behaviour that was intended to deceive. While it would be possible for the social worker to attempt remediation, this would require evidence from them that they understood the causes and actions of their alleged behaviour and had remediated to such a degree that a risk of future repetition was highly unlikely.

Insight and remediation: While the social worker is fully entitled to refrain from providing any submissions, their decision to do so leaves the case examiners without evidence of any insight, remorse or remediation in relation to these matters. The limited information that the case examiners have from the social worker is from an email provided by them during the course of the regulator's investigation which states: *'this is just a piece of work to you all but this is my life and hard work and efforts at stake'*[sic]. While the case examiners recognise that social workers may become frustrated during a fitness to practise investigation, the social workers limited responses fail to evidence any insight or remediation on the part of the social worker, other than focusing on the impact on themselves. The social worker has not evidenced any appreciation of the seriousness of the concerns raised, or of the damage their alleged actions have had potentially caused in terms of public trust and confidence in the profession.

Risk of repetition:

The case examiners have identified that the concerns raised are serious and the evidence indicates that the social worker's alleged dishonesty appears to have been premeditated,

by intending to deceive, occurring over a period of time, which may suggest a pattern of dishonesty. In the absence of evidence of insight or remediation, the case examiners conclude that the risk of repetition is high.

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.

The case examiners consider that the specific circumstances of these regulatory concerns would lead a member of the public to have major concerns about the social worker's ability to engender public trust and confidence in the profession. The public would most likely expect a finding of impairment and an appropriate sanction where a social worker had demonstrated alleged behaviours indicating a persistent pattern of dishonesty over a significant time period.

The case examiners conclude a realistic prospect of the adjudicators making a finding of 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. The case examiners have noted the following:

- There is no conflict in evidence in this case and the social worker has not disputed the facts, albeit because they have made no submissions.
- The social worker has not indicated directly whether they accept that their fitness to practise is impaired.
- The accepted disposal process will provide the social worker with the opportunity to review the case examiners reasoning on impairment and reflect on whether they do 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. Furthermore, the publication of an

accepted disposal decision will provide 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 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	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 considering a sanction, the case examiners have considered mitigating and aggravating factors in this case:

Mitigating:

- The social worker has no previous adverse fitness to practise history.

Aggravating:

- The social worker has not demonstrated any insight, remorse or remediation into the alleged conduct.
- There remains a high risk of repetition.

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 unlikely to be appropriate as they will not restrict the social worker's practice. The case examiners are satisfied that due to the seriousness of the regulatory concerns, which include a finding of dishonesty, no further action, advice or a warning, all 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 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 are of the view that as the social worker has not demonstrated any insight or remediation, and remains unemployed, they are unable to formulate workable conditions of practice. They also consider that the public interest in this case requires a more serious sanction, so that public confidence can 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 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.

The case examiners do not consider that, in the circumstances of this case, a suspension order is appropriate or would maintain public confidence. While social worker's alleged actions represent a serious departure from the professional standards, they have demonstrated no insight and there is no indication that they have any intention or desire to resolve or remediate their failings.

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 the light of the social worker's alleged actions, which include a realistic prospect of adjudicators finding dishonesty, there is no other outcome available to them that would provide the level of assurance needed in respect of these three criteria. Dishonesty is fundamentally serious, irrespective of whether it has a direct negative impact on service users. If there is finding of dishonesty, the public interest will usually require suspension or removal. Where dishonesty is combined with a lack of insight, or is covered up, the case examiners' view is that nothing short of removal is likely to be appropriate.

In the case examiners' view, considering all the circumstances of this case, a removal order is the only sanction available which will safeguard public confidence, and is proportionate to the seriousness of the concerns raised.

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

On 03 September 2024, the social worker responded to an email containing the terms of the accepted disposal (removal order) which contained guidance and a video guide explaining the process and terms of acceptance. The social worker did not complete the prescribed pro-forma, instead returning an email response which stated, *"I accept the offer. I do not have a laptop to complete the form. Kind regards Ashton Quantrill"*.

Following further consideration, the case examiners requested further contact with the social worker by the regulator, to verify that they understood the terms and conditions of the accepted disposal.

On 05 and 12 September 2024, the case operations team sent two further follow-up emails requesting that the social worker verify:

- 1) They had read the case examiners' decision and the accepted disposal guidance;
- 2) They admit the key facts set out in the case examiners decision, and that their fitness to practise is impaired;
- 3) They had read the terms of the proposed disposal of their fitness to practise case and accept them in full.

No response has been received by the social worker.

This was followed up by a phone call from the case operations team to the social worker on 17 September 2024. The social worker did not answer the call, but a voicemail was left inviting further contact; this was accompanied by another follow-up email.

At the time of writing this determination, no response has been received by the social worker.

Case examiners' response and final decision

The case examiners have carefully considered whether the email, provided by the social worker, on 3 September 2024 is, in all the circumstances, sufficient to demonstrate that the social worker has provided informed consent to agree to an accepted disposal of a removal order. Following such careful consideration the case examiners are satisfied that:

- The social worker has been served the case examiner decision and has been furnished with all relevant guidance, outlining the grounds on which a proposed disposal should be accepted or rejected.
- The phrasing of the social worker's response, albeit limited, clearly states that they accept the offer (removal order).

The case examiners have considered paragraph 184 of the Case Examiner Guidance which states:

184. For a case to be concluded through accepted disposal, the social worker must agree to (all of the following):

- *admission of the key facts*
- *the fact that their fitness to practise is currently impaired (and will be considered impaired for the duration of the proposed sanction)*
- *the terms of the disposal proposed by the case examiners (also known as the 'sanction')*

The social worker has not completed the proforma sent to them, which provides them with a pre-prepared statement which they can use to indicate by way of a tick box and signature that they have admitted the key facts and consider their fitness to practise to be impaired. As such they have made no final submission on these matters. The case examiners have concluded that this is nonetheless inferred by the social worker due to the following:

- The case examiners note that the social worker has been served this information and are satisfied that the terms of the accepted disposal, as proposed by them, are clearly laid out in a clear and understandable format.
- These terms explicitly state that in order to agree to accepted disposal, *they must admit the key facts and accept that their fitness to practise is currently impaired.*
- There has been no evidence provided to suggest that the social worker lacks any capacity to consent or understand the information provided.
- The social worker has provided an explanation for why they have been unable to complete the proforma, stating that they do not have access to a laptop.

The case examiners further consider that the lack of response from the social worker, despite repeated contact by the regulator, suggests that their email dated 03 September 2024 is explicit in granting their acceptance of this accepted disposal, and that this is their final word on these matters. It also appears that the social worker is not willing to engage

with the regulator any further, which further suggests that a removal order is the appropriate determination.

While the case examiners consider that they may have departed from the case examiner guidance (paragraph 184), they are satisfied that it is in the public and the social worker's interest to bring these matters to a swift conclusion.

The case examiners are satisfied that the accepted disposal has been understood and agreed by the social worker. They therefore direct that a removal order is appropriate in the circumstances of this case.