

Case Examiner Decision
Shamiso Mahachi – SW104533
FTPS-20586 & FTPS-21030

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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	10 May 2024
	Accepted disposal proposed - removal order
Final outcome	21 June 2024
	Accepted disposal proposed - removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1, 2, 3, and 4 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concerns 1, 2, 3, and 4 being found to amount to the statutory grounds of misconduct.
3. For regulatory concerns 1, 2, 3, and 4, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

The case examiners did not consider it to be in the public interest for the matter to be referred to a final hearing and 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 accepted the proposal and the terms in full on 20 June 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	FTPS-20586: The complaint was raised by the social worker's former employment agency. FTPS-21030: The complaint was raised by Social Work England's Investigations Team.
Date the complaint was received	FTPS-20586: 31 January 2022 FTPS-21030: 18 August 2022
Complaint summary	FTPS-20586: Concerns were raised with regards to the social worker's case management. It is alleged the social worker failed to complete and/or record statutory tasks associated to children subject to Child in Need (CIN) and Child Protection procedures. FTPS-21030: It is alleged the social worker failed to inform employers that they were subject to fitness to practise (FTP) proceedings and was dishonest in their response to questions directly relating to their involvement with any FTP process.

Regulatory concerns

Whilst registered as a social worker:

1. On or around September 2021 to August 2022 you failed to appropriately safeguard the children on your caseload by:
 - a. Failing to record statutory visits, child in need meetings and/or core group meetings in a timely manner or at all.

- b. Failing to complete statutory visits within expected timescales and/or being unable to provide confirmation that children were seen as per statutory time scales.
2. You informed your employer 'Innovate CYPS' on 10 September 2021 that you were not subject to any fitness to practise proceedings which was inaccurate as at the time you were subject to a fitness to practise investigation (FTPS-18363).
3. You informed your employer 'Brent Council' during interview in or around December 2021 that you were not subject to any fitness to practise proceedings which was inaccurate as at the time you were subject to a fitness to practise investigation (FTPS-18363).
4. Your actions at regulatory concern 2 and 3 were dishonest.

The matters outlined in regulatory concern (1) amount to the statutory ground of misconduct and or lack of competence or capability.

The matters outlined in regulatory concerns (2), (3) and (4) amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct and/or lack of competence or capability.

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 on 16 March 2022 the social worker accepted a conditions of practice order of three years duration. This was subsequently replaced with a suspension order on 04 April 2023 after it was identified that they were not adhering to the conditions.

The case examiners are informed that the conditions of practice order was imposed in relation to concerns from a previous employer that the social worker did not complete work they were commissioned to undertake as an independent family group conference coordinator between November and December 2019. In addition the social worker did not handle sensitive information appropriately between April and August 2020.

The case examiners are satisfied, with reference to the regulations and fitness to practise rules, that this history may be considered to be adverse.

They have therefore considered whether it would be fair and reasonable to take it into consideration.

Having done so, the case examiners have determined it is fair and reasonable to do so, at this stage, for the following reasons:

- There is a connection between the previous order and the current concerns. The current concerns are intrinsically linked as it alleged the social worker failed to disclose they had been subject to FTP procedures.
- The current regulatory concerns were raised whilst the social worker was subject to a FTP investigation and subsequently made subject to a conditions of practice order.

The case examiners will therefore give consideration to this history in their decision making.

Decision summary

Is there a realistic prospect of the adjudicators finding the social worker's fitness to practise is impaired?	Yes	☒
	No	☐

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

Reasoning

Facts

Whilst registered as a social worker:

- 1. On or around September 2021 to August 2022 you failed to appropriately safeguard the children on your caseload by:**
 - a. Failing to record statutory visits, child in need meetings and/or core group meetings in a timely manner or at all.**
 - b. Failing to complete statutory visits within expected timescales and/or being unable to provide confirmation that children were seen as per statutory time scales.**

As the regulatory concern cites failures on the part of the social worker, the case examiners have turned their minds to what would have been expected in the circumstances.

The case examiners note that effective case management is key to safeguarding. Effective case management ensures that the information held about a service user is accurate, up to date, and can be used, with confidence, to identify and respond effectively to concerns, without delay.

Children subject to child in need (CIN) and child protection plans require regular oversight, in line with their individual plan. This oversight will vary for each individual but the guidance sets out a minimum of a visit every 20 working days for CIN and every 10 working days for child protection.

The case examiners have been presented with evidence from the social worker's former employer which offers a fair sample of their work over the period of time documented in the regulatory concern. The evidence also includes copies of the social worker's supervision documents, which refer to outstanding case recording and visits. Furthermore, there is email correspondence, from November 2021, where the social worker acknowledges to the Head of Service feeling overwhelmed by work and had not adhered to timescales with regards to case management.

The former employer has provided case record examples for 10 cases for whom the social worker was the allocated social worker. The case examiners are satisfied that screenshots provided from the case management system confirm the social worker was the allocated social worker during the period of time outlined in the regulatory concern and was therefore responsible for the case management.

The case examiners highlight the following examples:

Family 1: The children were subject to child protection plans.

- An email from the social worker's team manager in November 2021 details that the independent reviewing officer (IRO) had raised concern that no visits to the children had been recorded since the social worker was allocated the case in September 2021. The team manager goes on to state that on contacting the children's main carer, they report the social worker has only visited once which they thought was in September.

Family 2: The children were subject to child protection plans.

- The IRO raised a formal escalation on 12 November 2021 as they state they had discussed a lack of case recording with the social worker and it was agreed this was to be updated by 05 November 2021. The IRO states that there is no evidence of the children being visited since July 2021 and no evidence of a core group since July 2021. The IRO states that the main carer for the children said the social worker has not visited for 'a long time' and on several occasions the social worker was expected but did not turn up.
- Supervision recorded on 03 December 2021 states: *'The case file does not support the visiting pattern and visits are not recorded and this is now an urgent task. The SW has confirmed that she has visited around six times to see the children - these visits are to be recorded and uploaded by the 10/12/21. The last core group was held on the 19/11/21 and mum attended. The next RCPC is on the 14/12/21. There are no core groups recorded on file since June 2021. This means that the review and effectiveness of the plan is outstanding and blurred. A review of the children's needs is missing. The children remain on CP plans under the category of neglect.'*

- A further IRO escalation was made on 29 June 2022. The IRO highlights that case recording has not been completed. *'The SW has assured that the core groups have been effective and explains that they have taken place on the 4/10/21 and the 19/11/21. These important details are missing from the file and this missing information means that we are unable to understand the impact and outcomes for the children and if their needs are being met - via the CP plan.'*

Family 4: The children were subject to child protection plans.

- IRO observation is noted via email to the social worker dated 02 November 2021: *'I have been reviewing these children's files for the upcoming 6th CP review next week and note that there has not been a recorded visit to the children since the 03.08.21. Also there has been no recorded core group meetings held since the previous review on the 26.07.21. Also that supervision held and actions agreed at the beginning of October has not happened. Please can you give me an update asap, as I am extremely concerned about the drift in delay in the CP plan for these children.'*

In addition to the above examples, the case examiners have independently assessed the case records for the 10 families. These support the allegation that the social worker did not record and/or did not complete visits within statutory timeframes.

The social worker appears to accept the regulatory concerns, in so far as their case recording was not completed in a timely manner or at all in some instances, and statutory visits were not completed within timescales. However, the case examiners have noted that the social worker puts forward mitigation, which could suggest that the social worker does not accept responsibility for any failure.

The case examiners have had sight of a chronology documenting support for the social worker, with 'protected time' set aside for the social worker to complete outstanding case recording. The social worker accepts that the plan was put in place but states that the 'protected time' was not honoured as other tasks were prioritised during this time.

Whilst noting the mitigation presented by the social worker, the case examiners are satisfied that there is sufficient evidence to suggest the social worker did fail to complete

the tasks required of them, and that in doing so this would amount to a failure to safeguard.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding this concern (both parts) proven.

2. You informed your employer 'Innovate CYPs' on 10 September 2021 that you were not subject to any fitness to practise proceedings which was inaccurate as at the time you were subject to a fitness to practise investigation (FTPS-18363).

The case examiners have had sight of information provided by the social worker's former employment agency. The employment agency states that as part of their recruitment process social workers are asked:

- *Have you ever been or are you currently subject to any fitness to practise proceedings in the UK or any other country?*
- *Have you been subject to any disciplinary procedures during the last 5 years of employment?*

The case examiners have been provided with the declaration form in question by the social worker's former employment agency. The declaration form contains the e-signature of the social worker and is dated 10 September 2021. The case examiners are satisfied that the social worker has responded 'no' to the two questions asked above on the signed form dated 10 September 2021.

The case examiners have been provided with a letter from Social Work England to the social worker, dated 03 December 2020. The letter refers to FTPS-18363 and contains the following: *'We write to confirm that we have received about your fitness to practise and at this stage there are reasonable grounds to investigate the matter further.'*

The case examiners have been provided with an email from the social worker to Social Work England, dated 03 December 2020, confirming they received the letter, detailed above, regarding FTPS-18363.

The case examiners have also had sight of an email from a Social Work England investigator to the social worker dated 16 July 2021. In this, the investigator provides an update to the social worker about the investigation for FTP-18363 and explains that the case will be sent to the case examiners, so invites the social worker to provide submissions.

Having had sight of the letter and emails relating to FTPS-18363 the case examiners are satisfied that the social worker was made aware, prior to the time of completing the declaration for the employment agency, dated 10 September 2020, that they were

subject to a FTP investigation undertaken by Social Work England. Accordingly, the declaration made by the social worker would be deemed inaccurate.

The case examiners have determined that there is a realistic prospect of adjudicators finding regulatory concern 2 proven.

3. You informed your employer 'Brent Council' during interview in or around December 2021 that you were not subject to any fitness to practise proceedings which was inaccurate as at the time you were subject to a fitness to practise investigation (FTPS-18363).

The case examiners, as detailed in regulatory concern 2, are satisfied that the social worker was made aware of the FTP investigation relating to FTPS-18363 via letter on 03 December 2020, and via email on 16 July 2021.

Brent Council have confirmed that they were unaware of the social worker being subject to a FTP investigation until they received a telephone call from Social Work England in July 2022.

Brent Council confirmed that the social worker was employed via an employment agency from 30 November 2021 as a senior social worker.

The social worker's previous team manager told Social Work England, as part of the investigation for FTPS-20586, that they were not part of the recruitment process but that the social worker would have been asked as part of the recruitment process if they were or had been subject to FTP investigation.

The team manager, in an email dated 18 August 2022, state they gained confirmation from a colleague, who was part of the recruitment process, that the social worker was asked if their practice had ever been or currently under investigation and the social worker responded by saying no.

The team manager has also provided the council's standard list of 11 interview questions asked to agency social worker's during recruitment. Question 10 reads: *'Are you registered with HCPCC (sic) and has your practice ever been or currently under investigation?'*

Whilst the questions appear dated, with reference to HCPC (regulator prior to December 2019 for social workers) the case examiners are satisfied that the document suggests that there are set questions asked when recruiting agency social workers and the questions would appear to have been consistent for a number of years.

The case examiners have determined that there is a realistic prospect of adjudicators finding regulatory concern 3 proven.

4. Your actions at regulatory concern 2 and 3 were dishonest.

When considering dishonesty, the case examiners have applied two tests. Firstly, they have assessed the evidence to see if there is anything that may demonstrate any belief held by the social worker as to whether they were being dishonest. This is called a subjective test.

As the social worker has provided no information with regard to this matter, it is not possible for the case examiners to draw a conclusion about the belief they held at the time of the alleged conduct, but they are satisfied, from the evidence available, that the social worker was aware that they were subject to a FTP investigation from 03 December 2020.

The case examiners next considered whether the conduct is likely to be deemed dishonest by applying the objective standards of ordinary decent people. This is called an objective test.

It is reasonable to state that the social worker may have had something to gain by not disclosing to prospective employers, during the recruitment process, that they were subject to an active FTP investigation. Such a disclosure may have impacted on the decision making of the recruiters and could have prevented the social worker gaining the employment they sought.

The case examiners believe it is reasonable to conclude that, if a social worker was proven to have been aware of being the subject of an active FTP investigation but denied this to two employers as part of a recruitment process, an ordinary decent person is likely to view that as dishonest.

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

Grounds

This case has been presented on the grounds of misconduct and/or a lack of competence or capability. The case examiners' guidance encourages them to (where possible) identify the appropriate statutory ground to proceed on, as this provides clarity as to the basis of Social Work England's case against the social worker. The case examiners are reminded, however, that in some cases they may not always be in the best position to identify one ground over another.

Lack of competence or capability

The case examiners' guidance explains that lack of competence or capability suggests a standard of professional performance which is unacceptably low. It means a social worker

has demonstrated that they may lack the knowledge and skills to do their work in a safe and effective manner. This must usually be demonstrated over a fair sample of a social worker's work. There is no set definition of 'fair sample', but it suggests a sample sufficient to show the social worker's usual standard of work over a period of time.

The case examiners have noted the case examiner guidance which states that lack of competence or capability and misconduct are separate and distinct categories of impairment and that the two cannot overlap. Further, that performing poorly when knowingly practising outside the social worker's scope of practise may point to misconduct rather than a lack of competence or capability. Put plainly, the case examiners could summarise that, if a social worker knew what to do but did otherwise, this is more likely to point towards misconduct than a lack of competence or capability. If a social worker lacked the fundamental knowledge and skills to complete their duties, this is more likely to point towards a lack of competence or capability.

In this case, whilst the case examiners are satisfied they have a 'fair sample' of the social worker's case work, and it is suggested that the social worker's performance fell short of what was expected, there is no suggestion that the social worker did not have the knowledge or skills to complete the tasks assigned to them as part of their social work role. The social worker in their submissions to their former employer, and as part of the interim order process to Social Work England, does not suggest they had a lack of knowledge or skills to complete the work assigned.

As such, the case examiners are not satisfied there is a realistic prospect of adjudicators finding this matter amounts to lack of competence or capability.

Misconduct

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

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following standards, which were applicable at the time of the concerns.

Social Work England: Professional Standards (2019)

Establish and maintain the trust and confidence of people

As a social worker, I will:

2.1 Be open, honest, reliable and fair

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

As a social worker, I will:

3.11 Maintain clear, accurate, legible and up to date records, documenting how I arrive at my decisions

Act safely, respectfully and with professional integrity

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

Promote ethical practice and report concerns

As a social worker, I will:

6.6 Declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal or a regulatory finding is made against me, anywhere in the world

The case examiners have considered each regulatory concern in turn.

Regulatory concern 1

The case examiners are satisfied that the social worker was aware of the need for good case management which would include accurate case recordings and statutory visits completed within timescales.

The case examiners have noted that the social worker was made aware on several occasions, including in 1:1 supervision, of the concerns relating to their poor case management.

Poor case management can place vulnerable children at a heightened risk of significant harm and the case examiners consider it, if proven, to represent a serious departure from the professional standards.

Regulatory concerns 2, 3, and 4

Where it is alleged that a social worker has purposefully failed to inform their employer of current fitness to practise concerns and there is a question of dishonesty, the concern is always likely to be considered serious.

Honesty is key to good social work practice. Social workers are routinely trusted with access to private spaces (such as people's homes), and highly sensitive and confidential information (such as case notes). Social workers are relied on to act with honesty and integrity when making important decisions about service users, their relatives and carers. When a social worker does not act honestly, this brings into question their suitability to work as a social worker and would represent a serious departure from the professional standards.

The case examiners are satisfied there is a realistic prospect of adjudicators finding the matters amount to the grounds of 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 examiner guidance states, '*...concerns may relate to the social worker's character. If so, it can be more difficult to evidence remediation that has reformed their character. For example, if the concerns relate to dishonesty, breaches of trust or abuses of position.*' In this case the social worker's conduct is alleged to have been dishonest.

Insight and remediation

The case examiners have considered their guidance and note that it states: *'There is a greater risk of repetition if the social worker fails to fully understand what they have done wrong (and why it is wrong).'*

'The social worker can demonstrate their insight through (any of the following):

- *their engagement with the process*
- *their submissions during the investigation and prior to a hearing*
- *any remediation or reflection they have done regarding the concerns'*

Whilst the case examiners note that the social worker engaged with the interim order process, there have been no submissions received from the social worker with regards to the regulatory concerns at the case examiner stage. The information before the case examiners is limited, and they must proceed with caution, and on the basis that the social worker may lack insight.

The case examiners are aware that concerns relating to dishonesty can present a significant challenge to remediation.

Relevant previous history

The case examiners have noted that there is adverse history in this case, which they have commented on earlier, in the adverse history section of this document. Previous adverse decisions may raise concerns about the willingness or capacity of the social worker to observe their professional duties. They are of the view that this may highlight a lack of reflection and learning from past concerns. The case examiners highlight that the social worker was subject to a conditions of practice order, which is directly aligned to the current concerns, which they consider is an aggravating factor.

Risk of repetition

The case examiners note that the social worker raises concern with regards to their work environment when the case management concerns were raised, however the case examiners have noted support plans, put in place to support the social worker. It appears the issues persisted despite these.

Furthermore, the case examiners note concerns with regards to the social worker's case management were not isolated to the one employer, there is an emerging pattern of the social worker's conduct falling below the expected standard.

The case examiners are not satisfied that they have seen any depth of insight or remediation from the social worker, there is adverse history, and the nature of attitudinal

concerns such as dishonesty inherently create a risk of repetition. The case examiners conclude the risk of repetition is high in this case.

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.

In this instance, the evidence would suggest that the social worker did not effectively case manage their allocated cases, failed to maintain accurate case records and did not undertake statutory visits to children subject to CIN or child protection plans. Furthermore, the evidence would suggest that the social worker failed to inform their employer of their fitness to practise being investigated.

The case examiners have concluded that the alleged conduct has the potential to undermine trust and confidence in the social work profession. Dishonesty is likely to be viewed particularly seriously given the access social workers have to people's homes and lives. It is essential to the effective delivery of social work that the public can trust social workers implicitly.

Accordingly, the case examiners have concluded there is a realistic prospect that a finding of current impairment would be made by adjudicators, should the regulatory concerns be found proven.

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 have noted the following:

- The case examiners are of the view that there is a high risk of repetition, however, they consider that this can be managed through the sanctions available to 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 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, fair and just action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Interim order

An interim suspension order is already in effect.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒
Proposed duration	Where a social worker is removed from the register, there is no defined end to the finding of impairment. A social worker that has been removed from the register may only apply to be restored to the register 5 years after the date the removal order took effect. The adjudicators will decide whether to restore a person to the register.	

Reasoning
Having found that the social worker's fitness to practise is currently impaired, the case examiners then considered what, if any, sanction it should impose in this case. The case examiners have taken into account the Sanctions Guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction. The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator and upholding proper standards of conduct and behaviour. The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity. In determining the most appropriate and proportionate outcome in this case, the case examiners have considered the available options in ascending order of seriousness. <u>No further action</u>

The case examiners conclude that in view of the nature and seriousness of the social worker's misconduct which led to a finding of impairment, which has not been remediated and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or warning

The case examiners have then considered whether to issue advice or a warning. They note that neither of these sanctions would restrict the social worker's ability to practise and, therefore, it is not appropriate where there is a current risk to public safety.

Conditions of practice order

Conditions of practice may be appropriate in cases where (all of the following):

- *the social worker has demonstrated insight*
- *the failure or deficiency in practice is capable of being remedied*
- *appropriate, proportionate, and workable conditions can be put in place*
- *decision makers are confident the social worker can and will comply with the conditions*
- *the social worker does not pose a risk of harm to the public by being in restricted practice*

The case examiners note that the social worker has previously been subject to a conditions of practice order which appears to have been ineffective with regards to addressing the concerns which are aligned to the concerns presented in the current regulatory concerns. This suggests the social worker is not able to comply with conditions and that their deficiency in practice is not capable of being remediated.

The social worker has not demonstrated insight and the nature of dishonesty is such that it provides a significant challenge to remediation. The case examiners note the guidance states that conditions of practice *are less likely to be appropriate in cases of character, attitude or behavioural failings*, for example dishonesty.

The case examiners have determined that they cannot formulate conditions that would adequately address the risk posed by the social worker that would protect the public.

Suspension order

The case examiners went on to consider whether a suspension order might be an appropriate sanction. The case examiners have considered the guidance, which states:

Suspension may be appropriate where (all of the following):

- *the concerns represent a serious breach of the professional standards*
- *the social worker has demonstrated some insight*
- *there is evidence to suggest the social worker is willing and able to resolve or remediate their failings*

The case examiners do not consider that the social worker has demonstrated they are 'willing and able to resolve or remediate their failings'. The case examiners have taken note of the social worker's lack of engagement with a previous conditions of practice order and lack of insight and remediation with regards to the current practice related concerns. In addition, there is serious dishonesty present in this case would present a significant challenge to remediation. Consequently, the case examiners have concluded that this case cannot be concluded by way of a suspension order.

Removal order

The case examiners therefore went on to consider whether a removal order may be the only outcome sufficient to protect the public, maintain confidence in the profession, and maintain proper professional standards for social workers in England.

The case examiners consider that in light of the social worker's alleged conduct, there is no other outcome available to them that would provide the level of assurance needed in respect of these criteria.

The case examiners took into account the sanctions guidance. In particular they noted the examples given where a removal may be appropriate, and identified that (two) were applicable in this case. Specifically:

- dishonesty, especially where persistent and/or concealed
- persistent lack of insight into the seriousness of their actions or consequences

The case examiners are of the view, considering all the circumstances of this case, that a removal order is the only sanction available that will protect the public and safeguard public confidence.

To conclude, the case examiners have decided to propose to the social worker a removal order. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 28 days to respond.

If the social worker does not agree with the proposed outcome, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Response from the social worker

The social worker responded by email on 20 June 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 removal order and the social worker accepted this proposal.

In light of the social worker's acceptance of the removal order, 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 removal order 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 removal order is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.

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