

Case Examiner Decision
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FTPS-21669

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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	
1 st Preliminary outcome	3 December 2024
	Accepted disposal proposed - warning order (1 year)
2 nd Preliminary outcome	9 January 2024
	Accepted disposal proposed - warning order (1 year)
Final outcome	28 January 2024
	Accepted disposal - warning order (1 year)

Executive summary

The case examiners have reached the following conclusions:

There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators and being found to amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

For regulatory concern 1, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

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

As such, the case examiners requested that the social worker be notified of their intention to resolve the case with a warning order of 1 year. The social worker responded, explaining their actions and offering reassurance there would be no

recurrence. The case examiners have considered the social worker's submissions and although they are unable to propose a different outcome, they are of the view that the social worker should be given a further opportunity to consider the accepted disposal proposal, as it appears from the social worker's submissions that they accept their conduct fell below expected standards. The case examiners request that the social worker is offered the accepted disposal proposal for a second time, so they are given a further opportunity to consider this and decide whether they can accept the offer or would prefer to have their case heard by a panel of adjudicators. The social worker has subsequently accepted the 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 concern

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker
Date the complaint was received	18 January 2023
Complaint summary	The social worker advised that they were arrested for drink driving.

Regulatory concern

Regulatory Concern 1: While registered as a social worker and employed by Essex County Council, on or around 21st December 2022, you were convicted for driving while under the influence of alcohol.

Regulatory Concern 1 amounts to the statutory ground of ~~receiving a criminal~~ a conviction or caution in the United Kingdom **for a criminal offence**.

Your fitness to practise is impaired by reason of ~~your having received a criminal~~ a conviction or caution in the United Kingdom **for a criminal offence**.

(Minor amendments made by case examiners in bold).

Preliminary issues

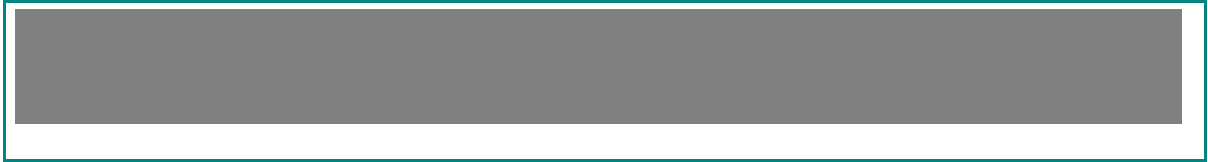
Investigation

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

Amendment of grounds

The case examiners have made minor amendments to the wording of the statutory ground, to reflect the wording set out in Social Work England's regulations. They are satisfied that this does not constitute a material amendment which would require adjournment.



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 it could amount to the statutory ground of a conviction or caution 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

The case examiners have seen the MG5, which details that there was a road traffic accident, when the social worker's car collided into a residential property and caused damage. The social worker was breathalysed, and they blew 43 microgrammes of alcohol in 100 millilitres of breath at the police station exceeding the prescribed limit of 35. The case examiners note this occurred almost 4 hours after the collision and that when the social worker was breathalysed at the scene of the accident, they blew 70 microgrammes of alcohol in 100 millilitres of breath.

A Certificate of Conviction indicates the social worker received a conviction of driving a motor vehicle with an alcohol level above the legal limit. The social worker was disqualified from driving for 12 months; however, this could be reduced by 13 weeks dependent upon the social worker completing a drink awareness course within a specified time period.

The case examiners are satisfied on this basis that there is a realistic prospect of adjudicators finding this concern proven and that this would amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.

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 regard to the concern before the regulator, the case examiners have given thought to their guidance, and they note that they should give consideration to whether the matters before the regulator are easily remediable, and whether the social worker has demonstrated insight and/or conducted remediation to the effect that the risk of repetition is highly unlikely.

Whether the conduct can be easily remedied

The case examiners are of the view that this conduct can be effectively remedied, through the social worker developing their understanding of the consequences of drink driving, recognising what led to the incident and reflecting on how they can prevent a recurrence in the future.

Insight and remediation

The social worker has provided submissions throughout the process, in their self referral to the regulator they stated “*I take full accountability for my actions and I am truly sorry for this incident that has occurred*”. They also commented “*I do...accept that as a social worker there are certain expectations of me*” which suggests the social worker appreciates how public confidence could be undermined by such conduct from a registered professional.

The case examiners are mindful of the circumstances of the offence, that the social worker reports drinking heavily at a party until the early morning and not realising they remained over the legal limit when driving home. The case examiners note that the collision occurred at 4.40pm, almost 12 hours after the social worker reports ceasing to drink alcohol. It is reported in the police record that the social worker said they felt sleepy and hungover and wanted to get home quickly as they were unwell. The social

worker is reported as stating to the police that they believed the accident was caused by *“I think a combination of alcohol in my system and lack of sleep, speed you know, I think a combination”*. It appears that the social worker may have been aware that they were not fit to drive and yet chose to do so, putting other members of the public at risk.

The social worker submits *“I take full accountability for my actions but I assure you, I have learnt from this incident”*, they admit they have struggled to continue revisiting their conduct but have continuously expressed their remorse and shame.

Unfortunately, possibly due to their struggles [REDACTED] the social worker has not provided the case examiners with their reflections about the potential impact on others nor what they have learnt from this incident and the subsequent drink driving course they attended. The case examiner has been provided with the employer’s disciplinary decision following this incident. The letter to the social worker states *“you clearly demonstrated that you have been able to reflect on the seriousness of your actions”*, which suggests that the social worker has reflected and was able to communicate this during their internal disciplinary hearing.

The case examiners have balanced their consideration of insight, noting the social worker’s limited submissions which mainly demonstrate remorse but recognising that it appears the social worker may have demonstrated greater insight to their employer. The case examiners are of the view that the evidence suggests that the social worker has developing insight but they cannot be confident this is complete.

The case examiners have then considered whether the social worker has remediated their conduct, they have been provided with evidence of the social worker completing the drink driving course but, as above, have not heard what the social worker learnt from this course.

Additionally, the social worker has provided context to this incident, setting out some of the personal challenges they were facing at this time, which they feel led to them being overcome with stress and driving under the influence. The case examiners agree that it appears the social worker was under immense pressure, [REDACTED]

[REDACTED] It is positive that the social worker sets out the steps they have taken to deal with this pressure, including stopping drinking alcohol to give them time to process those events, [REDACTED]

Risk of repetition

The case examiners consider this is a finely balanced case, with the social worker demonstrating incomplete insight but appearing to have taken necessary steps to avoid repetition.

Due to the evidence from the employer's hearing, the case examiners are satisfied that adjudicators would be likely to find there is a low risk of repetition, should the matter be heard at a hearing and the social worker was able to respond to questions directly.

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 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 factors 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 required.

In this instance however, the case examiners have identified one aggravating factor, that the social worker was involved in a road traffic accident whilst under the influence of alcohol. The case examiners note that no other drivers or pedestrians were involved in the accident but that damage was sustained to a residential property.

The case examiners are also mindful that the policy comments on another aggravating factor, "*the extent to which the social worker's level of alcohol or drug impairment was over the legally specified limit (if applicable)*". The policy sets out "*The higher the level of alcohol or drug concentration the more serious the offending would be considered*". Whilst the case examiners note that the court used the result taken at the police station which was only slightly over the legally specified limit, there was a delay in this being obtained due to the social worker requiring medical treatment following the collision. The roadside breathalyser test result, taken at the time of the collision was double the legally specified limit which suggests that the offending could have been considered more serious.

The case examiners have identified the following mitigating factors:

- The evidence suggests that this was the social worker's first offence.

- The social worker has demonstrated remorse and some insight into their behaviour.
- The social worker has undertaken some remediation in the form of a drink driving awareness course.
- There is evidence to suggest that the social worker is of otherwise good character.

The case examiners are satisfied the social worker has learnt from the incident and is unlikely to repeat this conduct, and they have taken action to remediate their actions.

However, given the presence of two aggravating factors and the evidence which suggests the social worker may have known they were unfit to drive but did so anyway, **the case examiners are satisfied there is a realistic prospect of adjudicators finding the social worker's fitness to practise is impaired.**

The public interest

Decision summary

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

Referral criteria

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

Additional reasoning

The case examiners have concluded that the public interest in this case is engaged. However, they are satisfied that this interest may be appropriately fulfilled by virtue of the accepted disposal process.

Whilst the matter is serious, the case examiners are not of the view that it is so serious that a hearing might be necessary to maintain public confidence in the social work profession, or in Social Work England's maintenance of the standards expected of social workers.

The case examiners have noted that the social worker has not indicated to the regulator whether they 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 consider that it is reasonable to offer accepted disposal in this case because:

- There is no conflict in evidence in this case and the social worker accepts all of the key facts.
- The case examiners are of the view that there is low risk of repetition, and therefore any finding of impairment would be primarily made in the public interest, to safeguard public confidence.
- 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 to the social worker an opportunity to review the case examiners' reasoning on impairment and reflect on whether they are able to accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.

The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Accepted disposal

Case outcome

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

Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's Sanctions Guidance (2022) and reminded themselves that the purpose of a sanction is not to punish the social worker but to protect the public and the wider public interest.

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 commenced by considering whether it may be appropriate to reach a finding of impairment, with the outcome being no further action. The guidance suggests this is only applicable in exceptional circumstances. The case examiners were satisfied that in this case, where they have found limited insight and a risk of repetition, a finding of no further action would be insufficient to protect public confidence.

The case examiners have next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners considered that whilst they could offer advice to prevent this situation arising again, this would not be sufficient to mark the seriousness with which they viewed the social worker's conduct and conviction.

The case examiners went on to consider a warning order, which would provide a clearer expression of disapproval of the social worker's conduct than an advice

order. The case examiners concluded that a warning order is the most appropriate and proportionate outcome in this case, and represents the minimum sanction necessary to adequately address the public's confidence in the profession.

In reaching this conclusion, the case examiners reminded themselves that they have found that there is a low risk of repetition, which suggests that a restrictive sanction would be inappropriate.

The case examiners also considered that a warning order would sufficiently mark the seriousness with which the case examiners view the social worker's conduct, and would also appropriately safeguard public confidence in the social work profession, and in the regulator's maintenance of professional standards for social workers. The case examiners therefore moved on to consider the length of the warning order, with reference to the regulator's sanctions guidance.

Warning orders can be imposed for one, three or five years. The case examiners are satisfied that in this case a one-year warning order would be sufficient to mark the seriousness of the conduct in question. In reaching this conclusion, the case examiners referred to the sanctions guidance, and noted the following:

The guidance states that one 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. The case examiners noted that, although they maintain a view that driving under the influence of alcohol is not 'low seriousness', in light of evidence of developing insight and remediation, a one-year warning is sufficient to protect the public, and to safeguard public confidence.

To test this position, the case examiners considered the guidance in respect of a three year order, which may be appropriate for more serious concerns, or a five-year order, for where a case has fallen only marginally short of requiring restriction of practice. The case examiners acknowledge that there will be differences of opinion in how seriously drink driving should be treated by the regulator and note that the regulator's drink and drug driving policy aims to achieve consistency across cases relating to these convictions. As the policy recommends a finding of no impairment may be appropriate in these cases, it would appear disproportionate to conclude that a three or five year warning is proportionate, in the absence of any further aggravating factors.

The case examiners have therefore decided to propose to the social worker a warning order of one-year's 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:

Your conduct in this case represented a significant breach of professional standards and had the potential to place members of the public at risk of serious harm and have an adverse impact on public confidence in you as a social worker and the social work profession.

The case examiners warn that as a social worker, it is of paramount importance that you conduct yourself appropriately and in line with the law and your professional standards, in both your personal and professional life. The case examiners remind the social worker of the following Social Work England professional standards (2019):

As a social worker:

5.2 I will not 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 conduct that led to this complaint should not be repeated. Any similar conduct or 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 18 December 2024, acknowledging the seriousness of their conduct and providing further reflections around what they had learnt during the drink driving course. The social worker has experienced bereavement during the investigation process and they believed that this affected their ability to engage with the regulator and provide detailed submissions.

Case examiners' response

The case examiners appreciate that the social worker has experienced very challenging circumstances and the social worker fears repercussions if the public are made aware of this decision. The case examiners acknowledge that decisions where a finding of impairment is made, will be published on the regulator's website, with the appropriate redactions made to protect the social worker's privacy as far as possible.

The case examiners acknowledge the social worker's further submissions and are reassured that the social worker has learnt from this incident and appreciates the possible impact upon public confidence.

However, the case examiners are mindful that they are not permitted to change the sanction nor timeframe by the Social Workers Regulations 2018, this is also supported by the case examiners guidance. They acknowledge the length of time elapsed since the social worker's driving offence but the case examiners decision to propose a one year warning was the shortest timeframe a warning can be imposed for. This sanction was chosen to evidence to the public that the professional standards must be upheld by social workers and that the regulator will take appropriate action when this is not done.

The case examiners recognise that the social worker did not indicate that they rejected the proposal, rather that they wished to add further comments for consideration. The case examiners are therefore of the opinion that the social worker should be provided with a final opportunity to decide whether they wish to accept the case examiners proposal of a warning order for one year.

The social worker will be offered a further 14 days to respond to the proposal.

Response from the social worker

The social worker has accepted the proposal using the response form, which includes the following declaration;

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

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

In their response, the social worker also indicated that they would like some of their more recent reflections acknowledged within the decision and more context given about the incident. The social worker has stated in correspondence;

“I wanted to clarify that I was at my works Christmas party the night before. I truly did not believe myself to be over the limit by the time I drove home from a colleagues home the next day and the roads were icy which is how I skidded. I also wanted to add that I called the police myself as I hit the wall”.

The case examiners acknowledge the social worker’s comments in response to the accepted disposal proposal. The social worker states;

“I really do understand the seriousness of this and I assure you, I will never be in this position again. I drank too much alcohol that evening that went on to the early hours of the morning and hadn’t eaten dinner. I waited until afternoon to drive, but I was over the limit. I made a terrible decision and I will never do that again.

After doing the course, I have so much more understanding about alcohol levels and also that it is very common for people to be over the limit the next day, despite making sure I slept and ate before leaving. This has made me so conscious and wary of ever being in this position again.

I have also reflected on how lucky I am that nobody else was involved in the accident. I would never forgive myself if I hurt anyone in the process. I am a truly proud social worker and this incident has filled me with so much shame the past two years, on top of all the other things going on”.

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 a warning order, rather than through a public hearing. They proposed a warning order of 1 year, and the social worker accepted this proposal.

In light of the social worker's acceptance of the warning 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. The case examiners 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, the case examiners remain of the view that an accepted disposal by way of a warning order of 1 year duration is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.