

Case Examiner Decision
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FTPS-22715

Contents

The role of the case examiners.....	3
Decision summary.....	4
The complaint and our regulatory concerns	6
Preliminary issues	7
The realistic prospect test.....	9
The public interest	14
Accepted disposal	16

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	3 July 2024
	Accepted disposal proposed - warning order (3 years)
Final outcome	15 August 2024
	Accepted disposal - warning order (3 years)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence.
3. 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 request that the social worker be notified of their intention to resolve the case with a warning order of 3 years. The social worker responded on 17 July 2024, confirming their acceptance of the case examiners' 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 [REDACTED] will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker
Date the complaint was received	21 July 2022
Complaint summary	The social worker advised they had been charged with drunk driving and was awaiting their court date.

Regulatory concerns

1. Whilst registered as a social worker on/around the 25 August 2022, you were convicted of driving over the prescribed alcohol limit.

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

Your fitness to practise is impaired by reason of your conviction in the UK for a criminal offence.

Preliminary issues

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

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



The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes ☒

No ☐

The case examiners have determined that there is a realistic prospect of regulatory concern 1 being found proven, that the concern 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

1. Whilst registered as a social worker on/around the 25 August 2022, you were convicted of driving over the prescribed alcohol limit.

The case examiners have been provided with evidence from the courts, which indicates that the social worker was convicted of the offence 'drive motor vehicle when alcohol level above limit' on 25 August 2022. This is evidence of both the facts and the statutory grounds of the regulatory concern.

The case examiners noted the following from evidence provided by the courts and police:

- The social worker is recorded as having collided with two parked cars and a garden wall.

- A witness reported to police that they had taken the social worker's car keys away because the social worker appeared to have been drinking and had expressed a desire to move their car away from the wall that they had hit.
- The social worker complied with police and provided a breath reading of 105 microgrammes of alcohol in 100 millilitres of breath.
- The social worker is described as having made full and frank admissions to police.



In light of the above, the case examiners are satisfied there is a realistic prospect of this regulatory concern being found proven and amounting to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence, should the matter go forward to adjudicators.

Impairment

Assessment of impairment consists of two elements:

1. The personal element, established via an assessment of the risk of repetition.
2. The public element, established through consideration of whether a finding of impairment might be required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers.

Personal element

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

Whether the conduct can be easily remedied

The case examiners are of the view that this conduct is remediable, in that the social worker could demonstrate insight into what went wrong and what they would do differently in the future, to prevent a recurrence.

Insight and remediation

The case examiners acknowledge that there is evidence of the social worker's early acceptance of responsibility, including their self-referral to the regulator. The case examiners can attach limited weight to this as it is the conduct expected of a regulated professional but recognise that the social worker's responses to the regulator all appear to be borne from an unequivocal acceptance of their responsibility for the error in judgement. All the evidence provided to the case examiners suggests that the social worker was remorseful they had acted in this way and that they are *"very distressed and ashamed that this has happened"*.

The case examiners note that the social worker has provided limited submissions during the investigation and has offered no comment on how the public may view their conduct. However, whilst the social worker's submissions do not offer much evidence of their specific reflections on the seriousness of their offence, they do comment, *"thankfully there was no one in the cars and therefore nobody was injured"*. This suggests that the social worker understands how the consequences of them drink driving could have been much worse, particularly given their driving was sufficiently impaired as to result in a collision with parked vehicles and a wall.

The social worker's submissions appear to focus on how the incident happened and the steps they have taken to address these underlying issues. The case examiners view this as key in avoiding repetition. The social worker has described that they *"regret the incident that occurred and appreciate all my employer has provided"* [REDACTED]
[REDACTED]

The social worker goes on to say, *"I have used this incident as a learning experiencing"* [REDACTED]
[REDACTED]

Risk of repetition

As stated above, although the case examiners consider the social worker could have demonstrated deeper insight, they also acknowledge that the social worker's reflections are centred around preventing recurrence. Given the social worker's engagement with their employer and wider support [REDACTED], the case examiners are satisfied that the risk of repetition is low.

Public element

The case examiners have next considered whether the social worker's actions have the potential to undermine public confidence in the social work profession, or the maintenance of proper standards for social workers.

In considering the public element, the case examiners have had reference to the regulator's Drink and Drug Driving Policy (December 2022), which advises the case examiners to consider aggravating and mitigating factors when assessing the seriousness of the social worker's criminal offence.

In respect of aggravating factors, the case examiners were satisfied that the following factors drawn from the policy would apply:

- the sentence imposed includes a period of disqualification from driving of over 12 months (25 months)
- the offence including involvement in a road traffic collision
- the extent to which the social worker's level of alcohol impairment was over the legally specified limit. The higher the level of alcohol or drug concentration the more serious the offending would be considered. (3 times over the legal limit).

In respect of mitigating factors, the case examiners were satisfied that the following factors drawn from the policy would apply:

- the offence in question not being a repeat offence
- the social worker demonstrating remorse and insight in relation to the offending behaviour (the social worker is remorseful and has shown some insight)
- the social worker is otherwise of good character (in that there is no evidence of other concerns about the social worker's behaviour and they appear to have accepted responsibility for their actions immediately)
- the social worker undertaking voluntary relevant remediation including (but not limited to) completing relevant driving courses (for example a drink-drive rehabilitation course).

With reference to the regulator's drink and drug driving policy, the case examiners are advised that a finding of impairment is only unlikely to be necessary in cases where there are no aggravating features. The case examiners are therefore of the view that the public may expect to see a finding of impairment in this case and, in its absence, public confidence in the maintenance of professional standards for social workers may be undermined.

The case examiners are satisfied there is a realistic prospect that adjudicators would find the social worker's fitness to practise impaired, should this matter go forward to a hearing.

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 (December 2022) suggests that a referral to hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance. In reaching this conclusion, they noted the following:

- 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	3 years	

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. They have also considered the drink and drug driving policy guidance (December 2022) which states, 'in determining a sanction, the decision makers should also take account the relevant aggravating and mitigating factors'. 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 consider for a case where the public interest was engaged, that no further action and advice would be unlikely to be appropriate. They acknowledge their guidance allows for exceptional cases where there is evidence of complete remediation and no risk of repetition. However, the case examiners return to the aggravating factors already noted and are of the view that the conduct in this case is sufficiently serious as to rule out both no further action and advice, as neither would appropriately mark the severity of the conduct in question. The case examiners consider a warning would be a proportionate outcome given the full circumstances of the case. A warning would remain on the social worker's record for an allocated time and sends a clear message about the conduct expected of social workers. The case examiners have considered whether a restrictive sanction may be required, but note that they have previously concluded there is a low risk of repetition. A conditions of

practice order is ordinarily most appropriate for practice issues and the case examiners are of the view that the social worker's conduct was not so serious as to require a suspension order.

The case examiners have then turned their minds to the duration of the warning. They are of the view that central to this consideration, the length of the warning should reflect how serious the alleged conduct was.

They have consulted the sanctions guidance (December 2022) and note that one year *"may be appropriate for an isolated incident of relatively low seriousness...to send a message about the professional standards expected of social workers"*.

A warning for three years is described as *"appropriate for more serious concerns...to maintain public confidence and highlight the professional standards"*, it also *"allows more time for the social worker to demonstrate that they have successfully addressed any risk of repetition"*.

The case examiners note that this appears to have been an isolated incident, albeit serious. The case examiners have taken into account the insight shown by the social worker, and no issues with their practice have been raised. However, the evidence suggests it was by good fortune that nobody was hurt by the social worker's actions, the collision suggests that their driving was significantly impaired and therefore represented a significant risk to the public. The case examiners have therefore concluded that three years is necessary to meet the primary objective of the sanction, which in this case is to mark the seriousness of the alleged conduct and send a message about the professional standards expected of social workers.

The case examiners have decided to propose to the social worker a warning order of 3 years duration. They will now notify the social worker of their intention and seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 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:

Driving over the prescribed limit of alcohol is serious. Your actions could have caused physical harm to a member of the public and damaged public trust and confidence in you and the profession.

You must adhere to Social Work England's (2019) professional standards for registered social workers and pay particular attention to the following standards to prevent repetition of a similar incident.

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.

Your conduct could have an adverse effect on the public's confidence in you as a social worker. It may also damage the reputation of the social work profession. This conduct 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 case examiners have had sight of an email from the social worker on 17 July 2024, which stated the following:

"I accept the outcome of the investigation and accept the findings. I thank Social Work England for the understanding they have shown for my case and it shall not be repeated."

The social worker was asked by the regulator to complete an accepted disposal response form, which includes a formal declaration of their response. After a number of attempts to contact the social worker, a completed form remains outstanding.

Case examiners' response and final decision

The case examiners are mindful of the importance of the response form in establishing a social worker's firm and formal response to an accepted disposal proposal. However, they are satisfied that, in this case, the social worker's email response is sufficient to suggest the social worker has reviewed the case examiners' findings and proposal, and accepts the outcome that has been proposed. The case examiners are therefore satisfied that it

would be appropriate to proceed on the understanding that the accepted disposal proposal has been agreed.

The case examiners have therefore considered the public interest in this matter and, as they have not been presented with any new evidence that might change their previous assessment, they are satisfied that it remains to be the case that the public interest in this case may be fulfilled through the accepted disposal process.

The case examiners therefore direct that the regulator enact a warning order, with a duration of 3 years.