



Case Examiner Decision

Perveen Kaur – SW116465

FTPS-22250

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.....	8
The public interest	13
Accepted disposal	15

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	08 February 2024
	Accepted disposal proposed - warning order (3 years)
Final outcome	08 March 2024
	Accepted disposal proposed - 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 grounds of misconduct.
3. For regulatory concern 1, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired.

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

As such, the case examiners proposed to resolve the case with a warning order of 3 years. The social worker accepted this proposal and the terms in full on 03 March 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.

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.

In accordance with Social Work England's fitness to practise proceedings and registration appeals publications policy, the case examiners have anonymised information relating to individuals to maintain privacy. A schedule of anonymity is provided below for the social worker and complainant, and will be redacted if this decision is published.

[REDACTED]

[REDACTED]

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer.
Date the complaint was received	19 April 2023
Complaint summary	The social worker is alleged to have accessed confidential social work records without professional reason to do so.

Regulatory concerns

Regulatory concern 1:

On or around between 22nd September and 13th October 2022, you accessed social care records without professional reason to do so.

Your actions in regulatory concern (1) amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of your misconduct.

Preliminary issues

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

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes ☒

No ☐

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

Reasoning

Facts

Regulatory concern 1:

On or around between 22nd September and 13th October 2022, you accessed social care records without professional reason to do so.

The case examiners have had sight of the evidence and note the following:



- The head of service completed a case access audit following receipt of the information from the social worker. Screen shots of access to the records have been provided, showing the social worker accessing [redacted] record on one occasion and Child A's record on three occasions during September and October 2022.

- The former employer has provided an IT user agreement, signed by the social worker, which states that the computer system should be used for 'lawful and authorised purposes'. In addition, the former employer has provided a screenshot of the case management system login screen which includes the message 'you must only access personal information where it is necessary to perform your work duties'.
- The social worker, within their submissions to the regulator, accept they accessed [REDACTED] record and Child A's record without authorisation or professional reason to do so.

The case examiners are satisfied there is a realistic prospect of regulatory concern 1 being found proven by adjudicators.

Grounds

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)

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

As a social worker, I will:

3.1 I will work within legal and ethical frameworks, using my professional authority and judgement appropriately.

Act safely, respectfully and with professional integrity

As a social worker, I will not:

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.

Social workers are entrusted with access to highly sensitive data, and it is essential that the public can trust that this information will only be accessed when a social worker has legitimate, professional reason to do so. Accordingly, it is a serious departure from the

standards, as well as potentially a contravention of General Data Protection Regulation legislation, for a social worker to access such data without professional reason or authorisation.

This concern, if found proven, is particularly serious as it is alleged that the data they have accessed is personal data held by a LA. By accessing data without utilising the correct process, prevents the organisation having control over their own confidential data. By not following the correct process the social worker had access to data which may have been confidential and not intended for the social worker to have sight of, posing a potential safeguarding risk.

If found proven, the social worker has misused their enhanced IT permissions to access confidential information and therefore bypassed a process which provides equitable and 'safe' access to personal records held by an organisation, in this case social care records.

Having considered the evidence the case examiners are satisfied there is a realistic prospect of adjudicators determining that the ground of misconduct is engaged.

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 do consider that the alleged conduct is remediable by the social worker, for example through training in relation to data protection and insight and reflection on their conduct, together with a consideration of how they might respond differently in future.

Insight and remediation

The case examiners note that the social worker states they have completed training with regards to data protection. Whilst this training has a direct link to the regulatory concern, the case examiners do not consider it was a lack of knowledge which led to the social worker accessing confidential data. The evidence indicates that they had already signed an IT user agreement outlining the requirements to use systems legitimacy, and were also reminded via screen warnings to only access data to perform their professional duties.

Whilst the social worker has provided an explanation with regards to the regulatory concern, and has provided some evidence indicating personal issue [REDACTED] which they state influenced their decision to access the records, the case examiners consider the submissions lack reflection and strategies engaged by the social worker to manage any future risk. Further, the case examiners do not consider that the social worker's mitigation in relation to personal issues is such as to suggest that the social worker did not understand the nature of their actions, when accessing the records concerned in this case.

The case examiners consider the social worker has demonstrated developing insight, rather than a full appreciation of the potential far-reaching impact of their conduct, including potential safeguarding implications.

The social worker's current employer has provided a positive reference with regards to the standard of their work and confirm they have no concerns over their professional practice.

Risk of repetition

Given the social worker's limited remediation, developing insight and lack of strategies to manage future risk, albeit with a positive reference from their current employer, the case examiners consider that the risk of repetition remains.

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.

Regulatory concerns regarding breaching confidentiality through accessing data, go to the heart of public confidence in the social work profession. They have the potential to undermine the public's trust in social workers. As such, it is likely the public would expect that a finding of current impairment is made by adjudicators to maintain public confidence in regulation of the profession.

Having considered both the personal and public elements, the case examiners have concluded there is a realistic prospect that adjudicators would find the social worker to be currently 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 considered whether a referral to a hearing may be necessary in the public interest, and have noted the following:

- There is no conflict in the evidence in this case and the social worker has accepted the key facts.
- While the social worker does not accept that their conduct is impaired, the accepted disposal process will provide the social worker an opportunity to review the case examiners' reasoning on impairment and reflect on whether they do accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the grounds or the question of impairment in more detail.
- The case examiners are of the view that there remains a risk of repetition, however they consider that this can be managed through other sanctions available to them.

- The case examiners are 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, case examiners have had regard to Social Work England's sanctions guidance and reminded themselves that the purpose of sanction is not to punish the social worker but to protect the public and the wider public interest. Furthermore, the guidance requires that decision makers select the least severe sanction necessary 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 sanctions in ascending order of seriousness. The case examiners first considered taking no further action, but decided that this would not be appropriate in a case where a social worker accessed confidential case records. Taking no further action would not provide the necessary level of public protection and would not satisfy the wider public interest.

The case examiners next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners decided that issuing advice was not sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners next considered whether a warning order would be appropriate in this case. The case examiners are aware that where a social worker's fitness to practise is potentially impaired, they will usually need to ensure the public is protected through some action by the regulator. The case examiners are of the view it is necessary to preserve public confidence in the profession and as such have decided to suggest a

warning order, which implies a clear expression of disapproval of the social worker's conduct. The case examiners have considered the length of time for the published warning and consider 3 years to be proportionate in this case. The case examiners have referred to Social Work England impairment and sanctions guidance in making this decision and do not consider 1 year to be proportionate as they do not view the matter as an isolated incident of relatively low seriousness. They went on to consider 3 years and considered this to be appropriate, as they view the conduct as more serious as the social worker repeatedly accessed personal records with the knowledge it was wrong and after clear instruction from their employer. The case examiners consider that 3 years would allow the social worker's insight to develop and give a period of time to demonstrate putting their learning into practice with regards to data protection. The case examiners did not consider a 5-year duration to be proportionate in this case, in light of the developing insight the social worker has shown.

The case examiners went on to consider whether the final two sanctions, conditions of practice and suspension were appropriate in this case. They were mindful of their guidance, which states that where there is a risk of repetition, a sanction requiring restriction of practice will normally be necessary. On this occasion the case examiners consider that conditions of practice or suspension are not warranted. The case examiners are of the view that although the social worker's development of insight is not yet complete, it is developing, and thus consider that oversight by the regulator would be disproportionate. They are of the view that a warning will achieve the primary goal of protecting the public and safeguarding public confidence. The case examiners considered that suspension from the register would be a disproportionate and punitive outcome in this case.

The case examiners will notify the social worker of their intention to suggest a published warning 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:

It is imperative that confidential information is accessed only in line with the appropriate legal frameworks. Should there be any doubt over access to information, then legal or information governance advice should be sought, and that advice adhered to, ensuring

confidential information is not accessed by anyone without the authority and/or professional reason to do so.

The case examiners would draw the social worker's attention to the following professional standards

As a social worker, I will:

2.6 Treat information about people with sensitivity and handle confidential information in line with the law.

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

5.2 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.

In relation to your ongoing practice, any further issues of a similar nature brought to the attention of the regulator are likely to be dealt with more seriously.

The case examiners would encourage the social worker to use their Social Work England CPD account to log their reflection and insight with regards to this matter. Whilst they cannot mandate this engagement, they would suggest this would allow the social worker a space to continue to develop their insight, which it is hoped would go towards reducing the risk of repetition.

Response from the social worker

The social worker responded by email on 03 March 2024 and confirmed: *'I have read the case examiners' decision and the accepted disposal guide. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full.'*

The social worker added the following:

'After reading and reflecting upon the contents of the case examiners preliminary report, I accept my fitness to practice is currently impaired. Whilst I am experiencing feelings of disappointment towards myself and regret for my actions, I agree with the proposed disposal warning with a total duration of 3 years. Upon further reflection, I understand and accept how there has been a wider implication and impact in my actions of misconduct around breaking data protection protocols in my previous role, and the potential wider safeguarding implications which had been present in relation to this. I

understand the importance of needing to preserve the public's confidence in the profession and how my actions of misconduct could cause the public alarm or affect the public maintaining trust within the profession. I sincerely regret my actions, and will ensure during the duration of the warning and beyond to continue too reflect and work towards ensuring this impairment is never repeated.'

The social worker also suggested minor administrative amendments which the case examiners have accepted, as they did not consider them material to their determination on this matter

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 warning order with a duration of 3 years and on 03 March 2024, the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, 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 warning 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 warning order of 3 years is a fair and proportionate