



Case Examiner Decision

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FTPS-21754

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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	
1st Preliminary outcome	16 August 2023
	Information requested Submissions requested
2 nd Preliminary outcome	6 June 2024
	Accepted disposal –warning order (3 years)
Final outcome	17 June 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 [REDACTED] 2 (2.1-2.5 inclusive) being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 2 (2.1-2.5 inclusive) being found to amount to the statutory grounds of misconduct [REDACTED]
[REDACTED]
3. For regulatory concerns 2 (2.1-2.5 inclusive), 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 considered that the case could be concluded by way of accepted disposal.

As such, the case examiners requested that the social worker was notified of their intention to resolve the case with a warning order of 3-years duration. The social worker subsequently accepted this proposal and the terms in full.

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 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 the social worker's former employment agency.
Date the complaint was received	26 September 2022
Complaint summary	The complainant raised concerns regarding allegations that the social worker had breached professional boundaries by:- - continuing to have contact with a service user, and - providing money to the service user, after their professional involvement with the service user had ceased.

Regulatory concerns

Regulatory concerns are clearly identified issues that are a concern to the regulator. The regulatory concerns for this case are as follows:

2. Breached professional boundaries with a service user (SU1) in that you:
 - 2.1. Maintained contact with a service user when you were no longer their allocated social worker including:
 - 2.2. Took the service user for a meal.
 - 2.3. Giving the service user a birthday card and/or an amount of cash.
 - 2.4. Taking the service user food shopping.
 - 2.5. Transferring money into the service user's bank account.

The matters outlined at regulatory concern [REDACTED] 2 amount to the statutory ground of misconduct.

By reason of your misconduct your fitness to practice is impaired.

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
<u>16 August 2023 (summary of preliminary request):</u> The case examiners requested that - amendments were made to the concerns presented to them - that the concerns were presented as substantive concerns to the social worker for submissions - and that the case was subsequently returned to the case examiners as a substantive case (rather than a recommendation for closure): Rationale: Paragraph 4 (1) (d) of the Social Work England appointment rules 2019 allows investigators to recommend that a case be closed if, for example, they have not been able

to find evidence to support the concerns, or if the evidence significantly undermines the concerns raised. Decisions regarding concerns being recommended for closure remain the remit of the case examiners.

In determining whether this case can be closed, the case examiners noted the commentary and signposting to relevant evidence provided by the investigators. The case examiners independently and carefully assessed all of the evidence available to them and considered that there may be sufficient evidence to support a realistic prospect of adjudicators finding the facts of the concerns, with the requested amendments, proven.

If the facts were to be found proven by adjudicators, the case examiners were of the opinion that there was also the potential for there to be a realistic prospect of adjudicators finding the statutory grounds of misconduct proven. The case examiners noted that the actions of the social worker had the potential to/may have caused harm (physical and/or emotional) to a service user, who appeared vulnerable to exploitation, and that similar harm may be repeated.

On the basis of the above, the case examiners did not agree that in the absence of evidence from the service user that there was insufficient evidence to support a realistic prospect of this case being found proven on facts. However, they did recommend further lines of enquiry to further clarify the evidence.

The case examiners were of the view that the concerns raised were serious. They considered it to be necessary, proportionate and in the public interest for them to pause their determination and for the concerns (as amended) to be presented to the social worker as substantive concerns, and for them to be invited to make submissions in relation to them. Submissions from the social worker are necessary for the case examiners to be able to make a fully informed decision in relation to the statutory grounds and current impairment.

The case examiners noted the case examiner guidance (para 145) which states they should only request further information if it would not be possible to reach a decision without it; they were satisfied that their chosen course of action was consistent with this guidance.

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



The case examiners have determined that there is a realistic prospect of regulatory concerns 2 (2.1-2.5 inclusive) 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

2. Breached professional boundaries with a service user (SU1) in that you:

- 2.1. Maintained contact with a service user when you were no longer their allocated social worker including:
- 2.2. Took the service user for a meal.
- 2.3. Giving the service user a birthday card and/or an amount of cash.
- 2.4. Taking the service user food shopping.
- 2.5. Transferring money into the service user's bank account.

The case examiners have carefully noted all of the information presented to them, and have particularly noted the following evidence in relation to concern 2:

- Confirmation from the relevant employing authority that the social worker had left their employment around March 2022, and that there was no cause for the social worker to meet with the service user after leaving their employ.
- Case notes by a staff member (6 June 2022) at the service user's accommodation, indicating that the social worker visited the service user, gave them a birthday card enclosing cash, and took them out for lunch and a food shop on 6 June 2022. These notes also record that the service user reported being 'excited' about having done the food shop, and stating that they thought the social worker had a 'soft spot' for them.
- Case notes by another staff member (27 June 2022) indicating that the service user had spoken about having called the social worker on or around to ask for £10 and that he sent £40 to her bank.
- Email from a further professional engaging with the service user, outlining that the service user informed them in June 2022 that they were still in touch with the social worker and that they "*had his number*".
- Email from a support worker to a manager, raising concerns that the service user had shared the following regarding the social worker, with them:
 - A screen shot showing a transfer of £40.00 into the (service user's) account on Monday, after having messaged the social worker asking for money;
 - Two screenshots showing messages between the social worker and the service user;

- That the service user told him the social worker had found her on WhatsApp, and that she had changed her number since he left;
- That the social worker had been in contact with the service user since approximately a week after her 18th Birthday in May 2022.
- That the social worker had suggested he visit the service user again at the end of the month.

The social worker, in their submissions, has admitted the regulatory concerns outlined at 2 (2.1 to 2.5 inclusive). The social worker states that:

- Their *"initial reason to stay in touch was due to the young person's vulnerability"*.
- That they *"met with the young person only once and this was on her birthday"*.
- They intended to give the service user *"a birthday experience which I considered 'normal' as I was aware that SU1 had not got any family that would provide this"*.
- That the service user contacted them again when out with a support worker and as *"she had spent her previous money on essentials, I still wanted to provide her with a gift for her 18th Birthday and this was the reason for the additional £40"*.

Having considered the available evidence, the case examiners are satisfied that there is a realistic prospect of concern 2 (2.1-2.5 inclusive) being found proven by adjudicators in relation to the facts.

Grounds

The matters outlined at regulatory concern [REDACTED] 2 have been presented to the case examiners as amounting to the statutory ground of misconduct.

The case examiners are aware that misconduct is generally considered to 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.

The case examiners have next considered concern 2 (2.1-2.5 inclusive). 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.

2.2 Respect and maintain people's dignity and privacy.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

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

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

5.2 Behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

The case examiners have not been presented with any evidence to indicate that any of the messages sent by the social worker to the service user were inappropriate in terms of content, or that their actions towards the service user during visits after their professional relationship had ended, had any harmful intent. They are nonetheless concerned that an experienced social worker would consider it appropriate to maintain such contact with a former service user, particularly given the degree of vulnerability recognised by them. Maintaining professional boundaries is a fundamental tenet of social work, and the social worker's actions raised significant and immediate concern amongst other professionals, who took prompt and appropriate action in raising their concerns to managers.

The case examiners consider that the social worker's actions fell significantly short of the requirement for them to maintain a clear and professional relationship with a service user. Social work is fundamentally about people and relationships, and it is important that social workers are alert to relationships becoming inappropriate. With the authority, knowledge and influence a social worker has in the professional relationship, there is almost always an imbalance of power. This is important to acknowledge alongside personal values, views and motivations to ensure that they do not influence the relationship. Social workers are required to recognise that people may read more into the professional relationship with them, even if the social worker's actions are not intended to be harmful. Acting in accordance with the values and principles of the profession at all times is also outlined in social work codes of ethics.

In relation to this specific case, there is evidence to indicate that the service user reported to support workers that the social worker had a '*soft spot for her*' and that she was his '*favourite young person*'. The young person also felt able to call the social worker and ask for money a number of months after their professional relationship had ended, which the

social worker appears to have responded to by sending money from his own personal account. The case examiners are of the view that the social workers actions had the potential to cause emotional harm to the service user, who he recognises as vulnerable, and while there is no evidence of any sinister intention on the part of the social worker, it does call into question their motivation and judgment.

The case examiners are satisfied from the information presented to them that the social worker's actions are likely to be considered a significant breach of the standards outlined above, and that **there is a realistic prospect of adjudicators finding the grounds of misconduct proven.**

Impairment

Assessment of impairment consists of two elements:

- The personal element, established via an assessment of the risk of repetition.
- 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

While the case examiners consider a breach of professional boundaries such as those alleged against the social worker to be serious, they do consider that, in the absence of any evidence of sexual motivation, the conduct can be remedied, for example through clear insight and remediation, such as completing further professional boundaries training.

Insight and remediation

In considering insight, the case examiners' guidance reminds them that they should consider different aspects of insight, such as (all of the following):

- whether the social worker understands what led to the events which are the subject of the concern

- whether the social worker recognises what went wrong
- whether the social worker accepts their role and responsibilities in relation to the events
- whether the social worker appreciates what could (and should) have been done differently
- whether the social worker has addressed how they might act or react differently if the same circumstances were to happen again (to avoid reoccurrence of similar concerns)

Furthermore, a social worker may demonstrate insight by making full and early disclosure about what has happened to (all of the following):

- those impacted
- current employer
- future employers

The case examiners do consider that the social worker has shown some evidence of insight into their alleged actions. They recognise the need to abide by a code of ethics, and submit that:

“Upon reflection it is clear that I overstepped professional boundaries by providing the young person with money. The young person did have good support with [REDACTED] and I did not put enough trust in the system to protect the young person from further risks. I have reflected on my actions and agree that there was wrongdoing and I blurred the professional boundaries that are in place to protect the young people we work with and also professionals. I have not repeated these mistakes in my practise and now give clear boundaries to the young people I work with”.

While the social worker has shown some insight, the case examiners do not consider that they have presented a clear understanding of how their actions may have been harmful to the service user, rather than protective. It also remains unclear to the case examiners why an experienced social worker would not have already been aware of the need to maintain the required boundaries, and why they did not feel able to trust other professionals to take steps to protect the young person. The case examiners are of the view that the social worker, if they continued to have concerns about the young person, could have raised these with the professionals supporting the service user during young adulthood.

In addition, the social worker’s reflections do not include consideration of how their actions may have impacted negatively on their colleagues, and on the reputation of the profession.

In terms of remediation, the case examiners note that the social worker advises that in September 2022, following further contact from the young person, they messaged the young person to explain that they could no longer have contact with them. While this demonstrates some evidence of remediation, the case examiners do not consider remediation to be complete. The social worker themselves recognise that *“regular training on professional boundaries is crucial. It reinforces ethical practices and reminds us of our responsibilities”*; however, they have not presented any evidence of engaging in such training in the time since these concerns arose, or what they have learned from any training, if they have attended.

Risk of repetition

While the case examiners consider there to be developing insight, they do not consider insight and remediation to be complete at this time. As such, they are unable to conclude that the risk of repetition is currently 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.

The case examiners consider that a member of the public, fully informed of all of the circumstances of this case, would be concerned that a social worker had breached professional boundaries in the way alleged, potentially placing a service user at risk of harm, and did not appear to have developed full insight and remediation since the incident. They further consider that the public would expect a finding of impairment and an appropriate sanction in the alleged circumstances of this case, if subsequently found proven.

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.
- Whilst the social worker has not indicated whether they consider their practice to be currently 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 disagree that they are currently impaired.
- While incomplete, the case examiners are of the view that there is some evidence of insight and remediation, and they consider that the risk of repetition can be managed through other sanctions available to them.

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.

Interim order

An interim order may be necessary for protection of members of the public	Yes	☐
	No	☒
An interim order may be necessary in the best interests of the social worker	Yes	☐
	No	☒

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	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 have 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 is alleged to have breached professional boundaries, potentially placing a young person at risk of harm. 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 (2022) in making this decision. The case examiners do not consider a 1-year warning to be proportionate, as they do not view the matter to be of low seriousness. Rather, they consider a warning order for 3 years to be appropriate, as they view the conduct to be serious and had the potential for harm to a vulnerable service user. As the case examiners have noted some developing insight and remediation, they consider that 3 years would allow the social worker to develop their insight and remediate further, and address any risk of repetition.

The case examiners next considered a warning order of 5 years. While the case examiners do consider the social worker's alleged actions to be particularly serious, they have balanced this against all the circumstances of this case, and the reflection provided by the social worker to date. Having done so, the case examiners are of the opinion this is not a case that has only fallen marginally short of requiring restriction of practice, and as such, consider 5 years to be excessive.

The case examiners also went on to consider whether more severe sanctions, e.g., conditions of practice or 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, taking all of the circumstances of the case into account and the developing insight and remediation, the case examiners consider that conditions of practice or suspension are not warranted. The case examiners are of the view that the social worker has demonstrated some insight into their conduct, and that oversight by the regulator would be disproportionate. They are also of the view that a warning order of 3 years' duration 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:

An allegation of not maintaining professional boundaries with a service user is serious. The matters alleged had the potential to cause harm to a vulnerable young person. Your actions as alleged also have the potential to have an adverse impact on the public's confidence in the social work profession.

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.

The case examiners warn that as a social worker, you must display behaviours which adhere to the required professional standards. The case examiners particularly remind the social worker of the following Social Work England professional standards:

2.2 Respect and maintain people's dignity and privacy.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

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

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

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.

This warning order will be for a duration of 3 years.

Response from the social worker

The social worker responded on 16 June 2024, confirming the following declaration: *'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

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 disposal, and is the minimum necessary to protect the public and the wider public interest.