

Case Examiner Decision
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FTPS-21281

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The role of the case examiners

The case examiners perform a filtering function in the fitness to practise process, and their primary role is to determine whether the case ought to be considered by adjudicators at a formal hearing. The wider purpose of the fitness to practise process is not to discipline the social worker for past conduct, but rather to consider whether the social worker's current fitness to practise might be impaired because of the issues highlighted. In reaching their decisions, case examiners are mindful that Social Work England's primary objective is to protect the public.

Case examiners apply the 'realistic prospect' test. As part of their role, the case examiners will consider whether there is a realistic prospect:

- the facts alleged could be found proven by adjudicators
- adjudicators could find that one of the statutory grounds for impairment is engaged
- adjudicators could find the social worker's fitness to practise is currently impaired

If the case examiners find a realistic prospect of impairment, they consider whether there is a public interest in referring the case to a hearing. If there is no public interest in a hearing, the case examiners can propose an outcome to the social worker. We call this accepted disposal and a case can only be resolved in this way if the social worker agrees with the case examiners' proposal.

Case examiners review cases on the papers only. The case examiners are limited, in that, they are unable to hear and test live evidence, and therefore they are unable to make findings of fact.

Decision summary

Decision summary	
Preliminary outcome	Accepted disposal – warning order (5 years)
Date of preliminary decision	06 June 2024
Final outcome	20 June 2024
Date of final decision	Accepted disposal – warning order (5 years)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concerns 1 and 2 being found to amount to the statutory ground of misconduct.
3. For regulatory concerns 1 and 2, 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 requested that the social worker be notified of their intention to resolve the case with a warning order of 5 years duration.

On 18 June 2024, the social worker accepted the accepted disposal warning order of 5 years duration, 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 [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.

In accordance with Social Work England's Fitness to Practise Publications Policy, the case examiners have anonymised the names of 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.

Employer 1	
Employer 2	

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	08 December 2022
Complaint summary	The social worker notified Social Work England that they had been suspended from their employment with [REDACTED] (Employer 1) on 12 August 2022. The suspension related to the social worker failing to disclose to the local authority, that their partner was charged and convicted of a child sexual offence in October 2020.

Regulatory concerns

Regulatory concern 1

Whilst registered as a social worker, between, in or around September 2017 and August 2022:

- You did not inform your previous and/or current employer that Person A, whom you had a relationship with, had been charged and/or convicted of attempting to engage in sexual communication with a child.

Regulatory concern 2

Your conduct at regulatory concern 1, above, was dishonest.

The matters outlined in regulatory concerns 1 and 2 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of 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 concerns 1 and 2 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

Regulatory concern 1:

Whilst registered as a social worker, between, in or around September 2017 and August 2022:

- You did not inform your previous and/or current employer that Person A, whom you had a relationship with, had been charged and/or convicted of attempting to engage in sexual communication with a child.

The case examiners have considered the following information:

Self -Referral

The social worker confirms that they had been in a relationship with person A since 2016. They outline the circumstances of person A's arrest on 03 September 2017, and subsequent conviction for a sexual offence against a child in September 2020. The social worker states

that they lived separately until September 2021 when they invited person A to move into their home.

The social worker commenced employment with the employer 1 on 18 October 2021 and prior to this, they report to have worked for employer 2 for around 19 years. During, and post the pandemic, the social worker worked primarily remotely from home.

Employer 1 - investigation

Employer 1 alleges that the social worker failed to disclose person A's sexual conviction at the start of their employment, and by not doing so, this was contrary to the local authority's conduct and disciplinary policy and of the professional standards.

- The investigation report, dated 06 October 2022, summarises the allegations leading to the suspension, and sets out a chronology timeline of the criminal case as well as disclosure date opportunities during the social worker's recruitment process.
- The Head of Service's statement, dated 13 September 2022, confirms that they were the social worker's recruitment manager, and line manager from October 2021. They explain that the social worker's role was to oversee the work of a safeguarding team of assistant team managers, social workers and child and family workers, and to make critical decisions on case work involving vulnerable children.

They confirm that on 11 August 2022, they received a telephone call from the social worker who told them about person A's sexual offence and conviction. When asked how long they had been aware of this, the social worker said for about a year. The witness is clear that they would have expected the social worker as a candidate, given the safeguarding responsibilities of the role, to make the disclosure at the time of the recruitment process but that they did not. In a later statement to the regulator's investigator on 15 September 2023, the Head of Service views that *'regardless of the policy incumbent upon the social worker to disclose as early as the application for the role, or at the point of interview... feels social worker had no insight into potential transference of risk during the actual disclosure and during interview.'* The case examiners note the witness's view that the social worker was deceitful in nature and perhaps had not expected to have been found out; they felt professionally betrayed and disappointed of the social worker's actions.

- A statement obtained from the senior probation officer, on 16 September 2022, confirms that person A's allocated probation officer had sought direction from them due to the social worker and person A's reluctance to disclose the matter, when speaking to them both at home on 8 August 2022. The social worker is reported to

have stated that they did not believe the disclosure would put their employment at risk, but it would be embarrassing. The senior probation officer confirmed to their colleague that this type of offence required notification to the employer.

The senior probation officer also spoke to the social worker on 11 August 2022 and advised that they needed to make the disclosure. They confirm the chronology timeline from the offence occurring in July-August 2017 to conviction and sentencing in January 2022, which had been significantly delayed due to the pandemic. The allocated probation officer reported that the couple's relationship appeared stable, and that the social worker reported to being fully aware of person A's offending since 2017 and remained supportive of person A. This information appears to contradict the social worker's account to the line manager that they had only known for about a year.

- The Head of Service confirms in an email, 03 October 2023, that during recruitment the social worker was not specifically asked about possible disclosures, but that the social worker's role would have fallen under the category of transferrable risk and therefore, should have disclosed under point 7 of the policy, *'transfer of risk is where criminal information relating to another member of an employee's household could have an impact on an employee's capacity and capability to undertake a job role satisfactorily.'* The case examiners have had sight of the guidance that the Head of Service refers to.

Employer 2

The case examiners have noted an email exchange between the Social Work England investigator and a representative of employer 2. The evidence is in the form of the investigator asking questions and the representative providing their responses, as follows:

Question: At the time the social worker was employed, was there either a policy or expectation which required staff to declare criminal proceedings or convictions of those they were closely associated to (i.e., family members, partners, members of their household, etc?)

Answer: *I was not aware of such policy, however, there would be an expectation from the staff to share this information if it impacted on ability to practice.*

Question: Whether any such declaration or disclosure was made by the social worker of concern whilst they were employed by [REDACTED]

Answer: *I am not aware of this and to the best of my ability, I cannot recall any declaration or disclosure when I managed them.*

Whilst the case examiners note this evidence may be limited, in company with admissions made by the social worker, the case examiners are satisfied that there is sufficient evidence in respect of the social worker's alleged lack of disclosure to employer 2.

The social worker's responses and submissions

The social worker accepts that they failed to disclose person A's conviction to either employer until they were informed by the probation service to do so. They assert that they always maintained confidentiality, and that person A never had access to any work information.

On 06 October 2022, the social worker provides a statement response to the employment investigation conducted by employer 1, in which they reflect upon their initial comments made during the initial interview conducted by the same employer. The social worker appears to have minimised the offence, and they assert that they take child sexual abuse very seriously. The social worker describes the internal conflict caused by how they feel about person A and of their actions, which they cannot reconcile.

The social worker informs that they have read the employer's policies and procedures and additionally, Social Work England's guidance, which they interpret as there being no statutory duty to disclose convictions of a partner unless personally being involved in an offence. They have consistently asserted that they kept their personal and work life very separate and were boundaried at all times. This is highlighted during interview on 02 September 2022, when the social worker states that they did not consider disclosing the matter to either their line manager or head of service *"because we were not living together and we were not in that place. If it was a long term relationship, or married, then I would have. It did not cross my mind as it was very separate from my work....I didn't think it was required or needed."*

The regulatory concern provides a specific time frame during which it is alleged that the social worker did not make the necessary disclosures, specifically September 2017 to August 2022.

The evidence indicates that the social worker only disclosed person A's conviction to their line manager on 11 August 2022, after being advised to do so by probation services who had made it clear that they would follow up on whether they had informed the line manager. The case examiners acknowledge that the social worker did comply with this advice and subsequently made the self-referral. However, this was nearly two years after the conviction date. There appears to have been multiple opportunities during person A's

legal process, that fell within the timeframe cited in the regulatory concern, that the social worker could have volunteered the information to their employer, but failed to do so.

Therefore, the case examiners are satisfied that adjudicators would find a realistic prospect of the regulatory concern being found.

Regulatory concern 2:

- Your conduct at regulatory concern 1, above, was dishonest.

The case examiners have found a realistic prospect of the facts at regulatory concern 1 being found proven by the adjudicators. They will now consider whether the social worker's actions are likely to be considered dishonest.

When considering dishonesty, the case examiners have applied two tests, in line with relevant case law. Firstly, they have assessed the evidence to establish what adjudicators may determine the social worker's actual state of knowledge or belief was at the relevant time (the subjective test). Secondly, they have considered whether the social worker's conduct could be deemed as dishonest by the standards of ordinary, decent people (the objective test).

In regards to the subjective test, the case examiners note that the social worker denies a dishonest motive, but then also accepts that failing to inform their employer was dishonest. Their response is somewhat contradictory. The social worker asserts that prior to the investigation, they were not aware of the employment guidance and that they do not consider that they breached their contract.

The social worker reflects how the non-disclosure could be perceived as a deliberate attempt to hide information about person A, but that this was not their intention and if they had known of the requirement to disclose, they would have done so.

The case examiners consider that the information is insufficiently clear to ascertain what the social worker's actual state of mind was at the time. They note that had the social worker not been instructed to make the disclosure when they did, the issue may never have come to light.

The case examiners then turned their minds to the objective element of the test for dishonesty. In this case, as it is alleged that the social worker did not make a disclosure, the consideration will be if such conduct would amount to dishonesty by way of an omission. It is therefore necessary to consider two points. Firstly, was there a responsibility for the social worker to disclose the information? Secondly, if the social worker was, or should have been, aware of their responsibility to disclose the matter at hand.

In respect of the first point, the case examiners can empathise with the social worker who states they were in a coercive relationship with person A. However, they take the view that the social worker was an experienced team manager working within child protection and should have considered the incompatible personal and professional transference of risk when meeting their primary objective of safeguarding vulnerable children and families. Further, there were employment policies and procedures in place, and the social worker was subject to the HCPC and Social Work England professional standards.

The case examiners consider that the following standards indicate that there was a requirement on the social worker to disclose the legal proceedings involving person A.

HCPC Standards of Conduct (2016)

9.4 you must declare issues that might create conflicts of interest and make sure that they do not influence your judgement.

Social Work England Standards (2019)

2.7 Consider where conflicts of interest may rise, declare conflicts as early as possible and agree a course of action.

The case examiners consider that the social worker's alleged failure to disclose person A's sexual offending leading to a conviction, not only has the potential to cause bias in decision-making if working with sex offenders or victims of sexual abuse, but could also detrimentally impact upon the reputation of the local authority. As such, the case examiners conclude this is likely to be considered a conflict of interest that the standards would require a social worker to disclose to their employer.

Whilst the case examiners note that the social worker appears not to commit to having knowledge of such a requirement, they are of the view that the social worker should have been aware of the standards. Notwithstanding, the case examiners consider that, given the nature of the social worker's role, it should have been abundantly clear that the matter involving person A's alleged sexual offending with children, and of the social worker being in a relationship with person A, would amount to a conflict of interest that would need to be disclosed.

The case examiners have turned their minds to what the social worker may have had to gain if they made a conscious decision not to disclose the information in respect of person A. They are of the view that the social worker may have perceived that the making of such a disclosure could negatively affect their employment, and as such impact upon them personally. Accordingly, it may be viewed that omitting the disclosure would be something that the social worker would gain from.

The case examiners are of the view that an ordinary decent person is likely to consider that the social worker was dishonest.

Accordingly, there is a realistic prospect of adjudicators finding this concern proven.

Grounds

With regards to regulatory concern 1, the case examiners have found a realistic prospect of the facts being found proven, and at regulatory concern 2, have found a realistic prospect that the concerns would amount to dishonesty.

They must next consider whether, if proven, the concerns raised would amount to an allegation of fitness to practise by reasons of the statutory grounds being 'misconduct'.

Misconduct

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

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

HCPC Standards of Conduct (2016)

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers, and colleagues as far as possible

9.1 you must make sure that your conduct justifies the public's trust and confidence in you and your profession

9.4 you must declare issues that might create conflicts of interest and make sure that they do not influence your judgement.

Social Work England Standards (2019)

2.1 be open, honest, reliable, and fair

2.7 Consider where conflicts of interest may arise, declare conflicts as early as possible and agree a course of action.

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

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

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

The case examiners have found a realistic prospect of adjudicators concluding that the social worker acted dishonestly; this is always likely to be considered serious. They have explained in their consideration of the facts why adjudicators may find the social worker had acted dishonestly in this case. Honesty is key to good social work practice. Social workers are relied upon to act with honesty and integrity when making critical decisions about service users, their relatives and carers. The alleged conduct would not align with the professional standards identified above.

When considering whether the social worker had a duty to declare person A's conviction, the case examiners have paid particular attention to the following professional standard:

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

Turning their minds to risk, the case examiners consider that the social worker's alleged failure to disclose person A's sexual offending leading to a conviction, had the potential to cause bias in decision-making if working with sex offenders or victims of sexual abuse.

When faced with conflict arising in their personal life that has the real potential to impact upon the ability to safeguard and protect vulnerable individuals, the case examiners would expect a social worker to seek clarity and promptly inform their employer, so that the appropriate risk assessments are conducted. These are required not only to protect both service users and the social worker, but also the organisation and profession. As the evidence in the case suggests that the social worker's actions meant that the employer was unable to carry out such a risk assessment, it appears that the public were exposed to unnecessary risk for a considerable amount of time.

If the matters were to be found proven by adjudicators, the case examiners conclude the conduct described is likely to suggest a significant departure from the professional standards detailed above.

Accordingly, the case examiners are satisfied there is a realistic prospect of adjudicators finding these matters amount to the statutory ground of misconduct.

Impairment

Assessment of impairment consists of two elements:

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

Personal element

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

Whether the conduct can be easily remedied

The social worker denies the dishonesty matter central to the complaint. Dishonesty is recognised as one of the most serious instances of misconduct and if proven is difficult to remediate. The available information appears to suggest that from the beginning of the legal process, the social worker has attempted to hide person A's conviction for sexual offences against a child(ren). Further, for some considerable time, the social worker has either appeared to minimise the seriousness of person A's actions and/or chose to keep the matter hidden to prevent discovery. The social worker has provided partial evidence of remediation. The concerns centre on dishonesty, which can inherently bring with it a risk of repetition as it can point to character or attitudinal flaws that are extremely difficult to remediate.

Insight and remediation

The social worker denies their practice is impaired.

The case examiners highlight that the case examiner guidance (paragraph 32) asserts that the social worker may deny facts, but still be capable of demonstrating sufficient understanding of why the public would be concerned by the behaviour and how to reduce the risk of repetition.

The social worker asserts that person A's conviction did not impact on their work, professional judgement or decision-making. They state, *'I kept it separate from work. In my profession, I am very boundaried, focused and clear in terms of how I make decisions. I have reflected on how this could have impacted me on my practice and it hasn't at all. I have kept it separate from my work life. It did not cross my mind or thought about it in my day to day work, in terms of him and what was going on.'*

The social worker mitigates that there was conflict in the personal relationship for which [REDACTED] in May 2022, [REDACTED] in May 2023, which the social worker says highlighted how untenable the relationship had become.

The social worker is remorseful and does accept some responsibility for their conduct, however, they repeatedly claim to not have been aware of the need to make the disclosure; they blame the probation services for not informing them of the requirement earlier and deny any reluctance to report, rather that they were shocked, when told to do so by the probation officer.

The social worker submits that whilst the non-disclosure can be seen as an act of dishonesty that questions their character and integrity, they made a mistake from which they have learned. However, they strongly assert that this failure did not impact their day to day responsibilities and decision making and that it did not impact on the young children and family they were responsible for.

The case examiners are of the view that this may suggest a significant lack of insight as there appears to be no recognition of why the employer would have required to have been in receipt of all the facts, in order to carry out an independent risk assessment. The social worker does states that they would have acted differently if they had known the information needed to be shared. They reflect on the importance of transparency and accountability within the profession.

The case examiners note that social worker has engaged in the fitness to practise process, and promptly made the disclosure when told to do so, however, arguably they may not have had a choice. The social worker has confirmed that since June 2023, they are not currently working in a qualified role, they are no longer in a relationship with person A and have [REDACTED] to better understand the situation they found themselves in.

Risk of repetition

Taking into account all the information available, the evidence reviewed leads the case examiners to conclude that there is a risk of repetition.

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 subject matter that the dishonesty relates to is serious, as previously outlined by the case examiners.

Social workers have access to people's homes and lives and a professional acting dishonestly undoubtedly has the potential to undermine public confidence. Such conduct is certainly a significant departure from professional standards and goes to the heart of public confidence in the profession. This is also true when a social worker is alleged to have failed in their duty to safeguard vulnerable individuals by not disclosing a personal relationship in which their partner received a conviction for a sexual offence against child(ren).

The case examiners have deemed there is a risk of repetition, therefore they must conclude that there is risk to the public.

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.

The public interest

Decision summary

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

Referral criteria

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

Additional reasoning

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired, rather they have focussed on marking the context and remediation. Where a social worker does not accept the key facts and/or impairment, case examiner guidance suggests that a referral to hearing may be necessary in the public interest. However, the case examiners note that the guidance states the social worker must accept the key facts and matters 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 the facts cited at regulatory concern 1. In respect of regulatory concern 2, it is unclear if the social worker fully accepts dishonesty, indeed the evidence suggests they do not, however

the social worker does not dispute the factual matter that is intrinsically linked to the dishonesty allegation.

- The case examiners are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order to satisfy the public that this risk is being managed without the need for this to be examined within a public hearing.
- 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.

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	Warning Order – 5 years	

Reasoning
Having found a realistic prospect that the social worker's fitness to practise is currently impaired, the case examiners then considered what, if any, sanction they should propose in this case. The case examiners have taken into account the Sanctions Guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction. The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator, and upholding proper standards of conduct and behaviour. The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity. In considering a sanction, the case examiners have considered mitigating and aggravating factors in this case: <u>Mitigating</u> During their employment with the local authority there were no concerns about their practice reported

- The social worker has demonstrated some insight and remediation, and engaged throughout the investigation and fitness to practise process.
- A member of the public is likely to consider the social worker's conduct as unacceptable, but may be reassured by the actions taken by the social worker towards remediation.

Aggravating

- The risk of potential harm to service users, colleagues and the public confidence in the profession was prolonged by the social worker's conduct between 2017 and 2020.
- Dishonesty is viewed particularly seriously.

In determining the most appropriate and proportionate outcome in this case, the case examiners have considered the available options in ascending order of seriousness.

No Action or Advice - The case examiners conclude that the social worker's alleged actions were serious. In the absence of exceptional circumstances, it would be inappropriate to take no action or give advice. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Warning - In relation to a warning, the case examiners had regard to paragraph 108 of the guidance, which reads:

A warning order is likely to be appropriate where (all of the following):

- *The fitness to practise issues is isolated or limited*
- *There is a low risk of repetition*
- *The social worker has demonstrated insight*

The case examiners have decided the appropriate outcome in this case is to issue a warning order. The case examiners have determined that a duration of 5-years is necessary. It is only due to the particular circumstances of this case, namely that the alleged dishonesty is specific to a unique and extremely personal set of circumstances, that has led the case examiners to conclude that, whilst there remains a risk of repetition, they are satisfied that placing a restriction on the social worker's practice is not required. However, the case examiners stress that they have carefully considered a restrictive sanction and this case has only fallen marginally short. Accordingly, a 1 or 3-year warning would not sufficiently address the public interest in this case and the case examiners have determined that issuing a warning of 5-years' duration is required to promote and protect public confidence in the profession.

Further, a 5-year warning will provide sufficient time for the social worker to reassure the regulator that there is no risk of repetition, given the nature of the dishonesty allegations.

The case examiners are aware that they need to clearly explain why they have not proposed a restrictive sanction in this case:

Conditions of Practice Order - The case examiners have tested the appropriateness of a 5-year warning by considering the next sanction up in terms of severity.

In respect of conditions of practice this is normally a sanction that is used to address matters of health or a lack of competency or capability. There is no suggestion of any competence concerns in this case and the allegations are likely to amount to misconduct that is not rooted in a health concern. As such, conditions of practice would not be appropriate in this case.

Suspension Order

The case examiners have also carefully considered suspension. Several aspects of the sanctions guidance would appear to steer the case examiners to this sanction. The case examiners highlight that the same guidance makes it clear that matters of dishonesty can result in removal, but that the following circumstances (which all appear to apply in this case) may result in this being avoided with suspension as an alternative:

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

Though the last point could be argued to the contrary given the existence of potential attitudinal concerns, namely dishonesty, the case examiners are satisfied that the social worker has demonstrated sufficient insight to suggest that remediation is not out of reach.

In addition, whilst the alleged dishonesty is said to have persisted for a considerable amount of time, this was isolated to the specific matter of the social worker's personal relationship with person A and the steps they did not take to make their employers aware of this. The social worker has described steps they have taken to remediate, and the case examiners note that the social worker has ended their relationship with person A and

There is no suggestion that the social worker has displayed dishonest conduct in any other aspects of their practice.

The case examiners have found a risk of repetition in this case, due largely to the nature of dishonesty. In reality, the passage of a significant period of time is required in this case for

the social worker to be able to demonstrate that the risk of repetition is sufficiently low. The case examiners noted that the sanctions guidance in respect of 3 and 5 year warnings respectively states that:

- *'The period also allows more time for the social worker to show that they have addressed any risk of repetition'*
- *'A social worker should ensure there is no risk of repetition throughout this extended period. If successful, there will be no further fitness to practise findings (in relation to similar concerns).'*

The case examiners have interpreted this guidance to mean that there will be cases where a risk of repetition exists, but a warning order can still be proportionate.

There is no evidence that the social worker has acted dishonestly in respect of practice specific tasks, at any time throughout their employment history. The case examiners are of the view that the specific circumstances of this case are extremely unlikely to arise again. The direct risk to members of the public is largely limited to the risk to public confidence. The case examiners are of the view that this can be addressed by way of a warning order of the maximum duration, that demonstrates clear disapproval of the social worker's alleged conduct.

The case examiners consider that restricting the social worker's practice by way of suspension would be a disproportionate and punitive outcome. The case examiners have determined that, in all the circumstances, a warning order of five year's duration is proportionate in this case.

The case examiners will notify the social worker of their proposal to issue a warning order of 5-years' duration, and will seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 21 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

Dishonesty is a very serious matter, and can seriously damage the public's confidence in individual social workers, and in the profession as a whole.

The case examiners determined there is a realistic prospect that you could be found to have acted dishonestly. They noted the sensitive and unique set of circumstances in this case, and were satisfied that there is not a broader pattern of behaviour.

However, should any similar matters be brought to the attention of the regulator, this would bring that conclusion into question and is likely to result in a more serious outcome.

The case examiners remind you that you are required to adhere to Social Work England's professional standards. In particular, they bring your attention to the following standards:

As a social worker I will:

2.1 Be open, honest, reliable and fair.

As a social worker I will not:

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

The case examiners recommend, though cannot mandate, that you use this determination for a reflective exercise as part of your continuing professional development.

Response from the social worker

The social worker's response was received on 12 June 2024 confirming *'that 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.'*

Case examiners' response and final decision

The case examiners concluded on 06 June 2024 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 with a duration of 5 years and, on 18 June 2024, the social worker accepted this proposal.

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 is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.