

Case Examiner Decision

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FTPS-21484

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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	30 April 2024
	Accepted disposal – warning order (3 years)
Second Preliminary outcome	10 June 2024 Accepted disposal – warning order (3 years)
Final outcome	9 July 2024
	Accepted disposal – warning order (3 years)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of 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 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 warning order of 3 years. The social worker has accepted the proposed disposal.

The case examiners have considered all of the documents made available within the evidence bundle. Key evidence is referred to throughout their decision and the case examiners' full reasoning is set out below.

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in [REDACTED] will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by a member of Social Work England
Date the complaint was received	02 November 2022
Complaint summary	Social Work England case examiners raised a concern that the social worker appeared to have failed to safeguard a child, following their examination of another case in which the social worker featured.

Regulatory concern

1. Whilst registered as a social worker you failed to safeguard child A who was at risk of being entered into a forced marriage.

Grounds of impairment

The matters outlined 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 this concern could amount to the statutory ground of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

1. **Whilst registered as a social worker you failed to safeguard child A who was at risk of being entered into a forced marriage.**

Having reviewed the evidence the case examiners understand that on the 5 November 2019 the social worker took part in a strategy meeting for child A. This was after concerns were raised by school that child A was engaged to be married to an adult male; child A was 13 years old and was not originally from the UK.

Following the strategy discussion the evidence indicates the social worker, [REDACTED] gave the allocated worker the following action; *"Contact to be made with family on 5/11/19 and a plan to home visit on 5/11/19 to see [child A]."* The evidence indicates the social worker made an announced home visit where child A was seen in the presence of their parents. All denied child A was engaged and/or married and the case was closed, as directed by the social worker.

A further referral appears to have been received on 13 January 2020. It indicates child A had not returned to school since 2 December 2019, although their mother was reported to be back in the area. Child A was noted to have written a note while still in school, although the evidence suggests the note was no longer available. The allocated worker is documented as having advised 'concerns regarding forced marriage had been explored and advised that it seems there is very little evidence for further action to be taken.'

In an email dated 2 November 2022 the case examiners note the social worker is quoted that they discussed this with the team manager (the social worker) who directed them to close the case.

The social worker appears to accept the regulatory concern. They provide information regarding what they would do differently in the future.

When considering whether the social worker has failed to safeguard child A the case examiners have turned their mind to what was reasonably expected of the social worker in the circumstances. The case examiners note that the social worker, despite the safeguarding concerns including that child A's parents have supported the engagement/marriage, advised the allocated worker to contact the family to plan a visit, thereby potentially putting child A at further risk of harm as the family were then aware of the referral.

The social worker also appears to have directed to the closure of the case, on two occasions. This was despite the evidence indicating the allocated worker did not see child A alone, and therefore did not give them the opportunity to have their voice heard without the possibility of being influenced by their parents, and without further investigation following the second referral.

As such, the case examiners are satisfied there is evidence to suggest the social worker failed to safeguard child A who was at risk of being entered into a forced marriage. They are therefore satisfied there is a realistic prospect of adjudicators finding this concern proven.

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 concern:

3.2 Use information from a range of appropriate sources, including supervision, to inform assessments, to analyse risk, and to make a professional decision.

3.4 Recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families and their support networks.

The case examiners are aware of Social Work England's professional standards guidance (2020) which states social workers have a responsibility to stay alert to and investigate suspected harm, neglect or abuse and, where risk has been identified, agree plans to address it urgently. Social workers will need to cooperate closely with relevant colleagues and agencies to consider options for action. They will maintain a focus on the person at risk, whatever other demands or issues come to light. All of this must be done within the law, and often under pressure. While the initial priority is safety, responding to risk should also include objectives around the longer-term.

In this case the social worker is alleged to have failed to safeguard a child who was at risk of being entered into a forced marriage. While the case examiners are mindful that the evidence could suggest the social worker was unfamiliar with forced marriages, the case examiners consider that it was a reasonable expectation that the social worker did not consider that the parents were influencing child A, or that by contacting the family to plan the visit this could have put child A at risk.

The case examiners consider potential risk of harm to be as serious as actual harm. The evidence suggests child A did marry. The case examiners are unaware if child A returned to the UK. The case examiners are of the view that a child forced to marry at a young age puts them at risk of harm.

The case examiners consider that the evidence regarding the social worker's alleged conduct raises concerns regarding their ability to use information from a range of appropriate sources to analyse risk, and to make a professional decision. It appears in this case the social worker relied on the information gathered by the allocated worker from the parents. Further, it calls into question their ability to recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families and their support networks. There does not appear to be a consideration of the potential impact on child A, in that their wishes and feelings do not appear to have gathered. Additionally, the social worker agreed to closure of the case on two occasions, the second without further investigation.

The case examiners are satisfied the evidence indicates the social worker's conduct has significantly fallen short of what would be expected in the circumstances. As such, the case examiners consider there is a realistic prospect of the adjudicators finding regulatory concern 1 amounts to 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 concern before the regulator, the case examiners have given thought to their guidance, and they note that they should give consideration to whether the matters before the regulator are easily remediable, and whether the social worker has demonstrated insight and/or conducted remediation to the effect that the risk of repetition is highly unlikely.

Whether the conduct can be easily remedied

The case examiners consider the conduct in relation the allegation is remediable, in that the social worker could demonstrate their understanding of what has gone wrong and what steps they could take to ensure this does not happen again, for example, by completing relevant associated training and/or a critical reflection addressing the concern raised.

Insight and remediation

The case examiners are of the view that the social worker, in explaining what actions they would take in future, and of the training and reflection they have undertaken, indicates they accept the key facts of this case. The social worker gives examples of what they would or could do differently in future and why, for example, that seeing a child alone gives them the freedom to express their concerns. The social worker, while not directly considering the impact of their alleged conduct on child A, does consider the impact on children of forced marriage. The social worker does not appear to have demonstrated

remorse, or their understanding of why the public would be concerned by their alleged conduct.

The case examiners note that the social worker appears to suggest that their instruction was misunderstood; *“Now I would ensure that recorded direction be much clearer and not open to interpretation and I may arrange specific case supervision to ensure that the social worker fully understood the direction given and had an understanding as to why an unannounced visit was required in the circumstances.”* Upon one construction this could be said to suggest that the social worker seeks to deflect responsibility. The case examiners note however, that while the social worker appears to have instructed the allocated worker to contact the family prior to their visit, that the allocated worker appears to have been experienced and in an advanced practitioner role. It is not clear why the allocated worker saw child A with their parents, and not alone where possible.

The case examiners have also had sight of remediation completed by the social worker, both shortly after the alleged concern continuing to most recently in February 2024. This suggests to the case examiners that the social worker took the alleged concern seriously and is committed to improving their practice. The case examiners understand that 52 of the social worker’s cases were audited and no similar concerns were raised.

The case examiners are mindful that testimonials which provide up to date, credible information about the social worker’s current practice can be relevant when exploring current impairment. The case examiners have had sight of positive testimony from the social worker’s current employer, [REDACTED]
[REDACTED]

Risk of repetition

Taking the above into account, the case examiners are of the view that the social worker has sufficiently demonstrated their understanding of the risk their alleged conduct posed. While the social worker has not directly addressed why the public would be concerned by such behaviour, the case examiners are sufficiently reassured by the social worker’s remediation that there would be a low 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 case examiners are of the view that a member of the public would be extremely concerned about an allegation that a social worker failed to safeguard a child. The case

examiners consider the allegation relates to fundamental tenets of social work including protecting vulnerable people from harm or abuse.

Adjudicators may consider there is potential risk of harm to the wider public in terms of their ability to trust and have confidence in a social worker who is alleged to have acted in this manner. An allegation of failing to safeguard a child is serious and the case examiners are of the view that given the alleged conduct in this case, a failure to find impairment may undermine public confidence in the profession and fail to maintain the professional standards expected of social workers. The case examiners have also concluded that there is a risk of repetition.

The case examiners consider there is a realistic prospect of adjudicators finding the social worker 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

With reference to their case examiner guidance (2022) the case examiners have given careful consideration to whether there is a public interest in these matters proceeding to a hearing.

Whilst the case examiners have determined there is a realistic prospect that adjudicators would find the public interest is engaged in this case, they are of the view that the public interest can be satisfied by their decision, and the reasons for that decision, being published on Social Work England's public register which can be found on its website. The publication of this decision will provide the social worker with an opportunity to reflect on and gain further insight into the circumstances of this case.

The case examiners note there is no conflict in the evidence in this case and the social worker does not dispute any of the key facts, appearing to accept the concern in full.

Further, 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. In this case the social worker could be said to suggest their fitness to practise was affected at the time of the alleged concern; *“It is difficult for me to say that my practice fell short at the time of the event in 2019.”* The accepted disposal process will provide the social worker with 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.

Lastly, public interest also entails the need for proportionate decision-making. The case examiners consider it is in the public interest to bring this matter to a prompt conclusion, whilst also ensuring the public remains adequately protected.

For the reasons stated, the case examiners have decided it is not in the public interest to refer this matter to adjudicators; rather they will write to the social worker and ask them to agree to dispose of this case without the need for a hearing.

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

The case examiners are satisfied there is a realistic prospect of regulatory concern 1 being found proven by adjudicators. Furthermore, they have found a realistic prospect that the concern, if proven, would amount to the statutory ground of misconduct. The case examiners have also found a realistic prospect that adjudicators would find the social worker's fitness to practise is currently impaired. The case examiners have decided however, that it is not in the public interest to refer this matter to a final hearing.

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

Firstly, the case examiners considered taking no further action but concluded this would not be appropriate in this instance as it would be insufficient to address the seriousness of the concern.

Next, the case examiners considered whether offering advice would be sufficient. 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 are of the view that

issuing advice is not sufficient to mark the seriousness with which they view the social worker's alleged conduct.

The case examiners then considered a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order. The case examiners are of the view a warning order is appropriate in that they consider the fitness to practise issue to be an isolated matter, have determined there is a low risk of repetition and consider the social worker has demonstrated sufficient insight and remediation.

As a further consideration, the case examiners turned their minds to the next two sanctions, conditions of practice and suspension. They note that conditions of practice orders are commonly applied in cases of lack of competence or ill health and therefore, the case examiners have concluded conditions were not suitable for this case. Further, there is positive testimony regarding the social worker's current employment.

Finally, the case examiners considered suspension. While they are of the view the concern represents a serious breach of the professional standards, they are of the view the social worker has demonstrated sufficient insight and remediation and therefore, suspension from the register would be a disproportionate and punitive outcome in this case.

The case examiners have considered the length of time for the published warning and consider 3 years to be proportionate in this case. In coming to this determination, they have taken into account the guidance which states:

- 1 year may be appropriate for an isolated incident of relatively low seriousness. In these cases, the primary objective of the warning is to highlight the professional standards expected of social workers. While an isolated incident, the case examiners did not consider it to be of relatively low seriousness given the nature of the concern is a key tenet of the profession.
- 3 years may be appropriate for more serious concerns. This helps to maintain public confidence and highlight the professional standards. The period also allows more time for the social worker to show that they have addressed any risk of repetition. While the case examiners have determined there to be a low risk of repetition, they also note that the

social worker does not currently appear to be in a role with overall decision making responsibility as they were at the time of the concern.

- 5 years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of practice. This helps to maintain public confidence and highlight the professional standards. The 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 considered this to be an isolated incident, and while serious, not one that only marginally fell short of requiring a restrictive sanction.

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

Social workers have a responsibility to stay alert to and investigate suspected harm, neglect or abuse and, where risk has been identified, agree plans to address it urgently. Social workers will need to cooperate closely with relevant colleagues and agencies to consider options for action. They will maintain a focus on the person at risk, whatever other demands or issues come to light.

The social worker must therefore ensure they comply with the following Social Work England Professional Standards:

As a social worker, I will:

3.2 Use information from a range of appropriate sources, including supervision, to inform assessments, to analyse risk, and to make a professional decision.

3.4 Recognise the risk indicators of different forms of abuse and neglect and their impact on people, their families and their support networks.

The case examiners warn the social worker that the conduct alleged in this case should not be repeated. Any further matters of similar conduct brought to the attention of the case examiners will be viewed dimly and will likely result in a more serious outcome.

Response from the social worker

The case examiners have had sight of the social worker's first response which was received by Social Work England on 23 May 2024.

In this the social worker states; *"I agree to the disposal on the basis of previous issues, however given the remediation, I can't agree that my current fitness to practice is impaired, as is supported by my manager. I accept the disposal but I would be grateful if you take into account the current situation and in the avoidance of doubt amend accordingly."*

Following the social worker's final consideration the case was returned to the case examiners on 9 July 2024. The case examiners have had sight of the social worker's completed accepted disposal response form of the same date.

The social worker has declared they have read the case examiners' decision and the accepted disposal guide. They admit the key facts set out in the case examiner decision, and that their fitness to practise is impaired. They have confirmed they understand the terms of the proposed disposal of their fitness to practise case and accept them in full.

Case examiners' response and final decision

Having considered the social worker's first response the case examiners are of the view that while they appear to accept the proposed disposal, the social worker does not appear to accept that their current fitness to practise is impaired.

The case examiners have therefore turned their mind to paragraph 184 of the case examiner guidance (2022) which states:

For a case to be concluded through accepted disposal, the social worker must agree to (all of the following):

- admission of the key facts

- the fact that their fitness to practise is currently impaired (and will be considered impaired for the duration of the proposed sanction)
- the terms of the disposal proposed by the case examiners (also known as the 'sanction')

The case examiners therefore determined to return the case to the social worker for final consideration.

Following the return of the case on 9 July 2024 the case examiners note that the social worker has accepted the proposed disposal as outlined by them. The case examiners have proceeded to further consider whether accepted disposal (3-year warning order) remains the most appropriate means of disposal for these matters.

The case examiners have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e., protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. The case examiners are of the view they have not been presented with any new evidence that might change their previous assessment. The case examiners remain satisfied that an accepted disposal by way of a warning order, is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.