

Case Examiner Decision
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FTPS-23565

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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 January 2025
	Accepted disposal proposed - advice (1 year)
Final outcome	18 February 2025
	Accepted disposal - advice (1 year)

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concern 1 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence.
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 advice of 1 year duration. The social worker responded confirming their acceptance of the case examiners' proposal.

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

Anonymity and redaction

Elements of this decision have been marked for redaction in line with our Fitness to Practise Publications Policy. Text in [blue](#) will be redacted in the published copy of the decision.

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by way of a self-referral by the social worker
Date the complaint was received	31 May 2024
Complaint summary	The social worker reported that on 21 May 2024, they received a conviction for driving whilst under the influence of alcohol. Prior to submitting their self-referral, the social worker had advised the regulator of their arrest shortly after the event.

Regulatory concerns

Whilst registered as a social worker:

1. You received a conviction on 21 May 2024 for driving whilst over the legal alcohol limit.

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

Your fitness to practise is impaired as outlined at regulatory concern 1 by reason of conviction or caution in the United Kingdom for a criminal offence.

Preliminary issues

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

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

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



The case examiners have determined that there is a realistic prospect of regulatory concern 1 being found proven, that it could amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts and grounds

Whilst registered as a social worker:

1. You received a conviction on 21 May 2024 for driving whilst over the legal alcohol limit.

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

The case examiners have had sight of a certificate of conviction, dated 21 May 2024, which confirms that the social worker was convicted of the following offence:

"On 04/05/24 at [redacted] drove a motor vehicle, namely a [redacted] vehicle registration [redacted] on a road, namely [redacted], after consuming so much

alcohol that the proportion of it in your breath, namely 70 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit.”

The certificate of conviction confirms that the social worker pleaded guilty. The document confirms that the social worker was disqualified from driving for 18 months, subject to a reduction of 18 weeks if the social worker were to complete an approved course.

With regards to the context of the offence, the case examiners noted the following from police MG5 documentation:

- On 4 May 2024 at 9:30am, the social worker was involved in a road traffic collision, having collided with a parked vehicle.
- Police attended, took a road side breath sample and arrested the social worker. An evidential sample was subsequently taken with a reading of 70 microgrammes of alcohol in 100 millilitres of breath.
- Whilst travelling to the custody suite, the social worker is reported as having made a ‘significant statement’ at 10:10am, saying that they “had too much to drink and crashed”. This statement was subsequently signed by the social worker with an addendum of “last night”.
- At interview, the social worker reported that they had been working flat out for weeks, including weekends, and they were exhausted. They had been asked by a friend to go over to the friend’s house for a few drinks. Upon doing so, the social worker started drinking at approximately 4pm and drank two bottles of merlot and then cans of cider.
- The social worker reported that they had gone to bed in the early hours of the morning. The social worker stated that they had got up at around 9am, had a bath and a cup of tea, and then got in the car to drive home. The social worker indicated that they had felt sober enough to drive, with acceptance that they hadn’t been.

Within their submissions, the social worker has confirmed the account of events provided above, and has also provided some additional mitigating information which will be considered later in this decision.

In light of the above, the case examiners are satisfied that there is a realistic prospect of regulatory concern 1 being found proven, and that adjudicators could determine that the statutory grounds of conviction or caution in the United Kingdom for a criminal offence are engaged.

Impairment

Assessment of impairment consists of two elements:

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

Personal element

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

Whether the conduct can be easily remedied

The case examiners are satisfied that the concerns in this case can be easily remedied. The case examiners consider that the social worker could remediate by demonstrating their insight and reflection on the circumstances of their criminal offence, and by engaging with the requirements of the court, including the successful completion of the drink drive rehabilitation course.

Insight and remediation

The case examiners have carefully reviewed the social worker's submissions and were encouraged by the depth of the social worker's insight and reflection.

The social worker enrolled upon and completed a court approved course quickly after their conviction and within their submissions to the regulator, they have set out what they learned and how they will apply it in the future.

Of particular note, the social worker has reflected on the importance of recognising that alcohol can still affect you the morning after consumption. The social worker has submitted that they had not previously been fully aware of the extent to which alcohol can stay in the system overnight and, in the case examiners' view, has provided a genuine account of the importance they have placed in this area of learning.

The case examiners also noted that the social worker has sought to reflect in the round on their experience of obtaining a conviction, and participating in the course. It

is apparent that they found value in reflecting on what happened with other participants.

More broadly, the case examiners noted that the social worker has highlighted mitigating circumstances. The case examiners recognise that the circumstances described by the social worker will have been deeply distressing [REDACTED]

[REDACTED]

Risk of repetition

In light of the case examiners' findings in respect of insight and remediation, they are satisfied that the evidence suggests the risk of repetition is low.

Public element

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

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

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

- the sentence imposed includes a period of disqualification from driving of over 12 months (18 months)
- the offence including involvement in a road traffic collision (considered to hold lesser weight as it was an unoccupied, parked car)
- the extent to which the social worker's level of alcohol or drug impairment was over the legally specified limit (if applicable). The higher the level of alcohol or drug concentration the more serious the offending would be considered (considered to hold medium weight, given the reading was 70 microgrammes)

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

- the offence in question not being a repeat offence
- the social worker demonstrating remorse and insight in relation to the offending behaviour
- the social worker is otherwise of good character

- the social worker undertaking voluntary relevant remediation including (but not limited to) completing relevant driving courses (for example a drink-drive rehabilitation course).
- the social worker's challenging personal circumstances at the time

With reference to the regulator's drink and drug driving policy, the case examiners are advised that a finding of impairment is only unlikely to be necessary in cases where there are no aggravating features. Whilst mitigating factors have been identified in this case, the case examiners consider that these could not outweigh the three aggravating factors identified. The case examiners are therefore of the view that the public may expect to see a finding of impairment in this case and, in its absence, public confidence in the maintenance of professional standards for social workers may be undermined.

Accordingly, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is 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 concluded that the public interest in this case is engaged. However, they are satisfied that this interest may be appropriately fulfilled by virtue of the accepted disposal process.

Whilst the matter before the regulator is serious, the case examiners are not of the view that it is so serious that a hearing might be necessary to maintain public confidence in the social work profession, or in Social Work England's maintenance of the standards expected of social workers. In addition, there is no conflict in evidence in this case and the social worker accepts all of the key facts.

The case examiners have noted, however, that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired.

Where a social worker does not accept impairment, Case Examiner Guidance (December 2022) suggests that a referral to hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance. In reaching this conclusion, they noted the following:

- The case examiners are of the view that there is low risk of repetition, and therefore any finding of impairment would be primarily made in the public interest, to safeguard public confidence.
- The case examiners recognise that not all professionals will have an innate understanding of how and when the public interest may be engaged, or how exactly this might impact upon findings concerning current fitness to practise.
- The accepted disposal process will provide to the social worker an opportunity to review the case examiners' reasoning on impairment and reflect on whether they are able to accept a finding of impairment. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the question of impairment in more detail.

The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Accepted disposal

Case outcome

Proposed outcome	No further action	☐
	Advice	☒
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	1 year	

Reasoning

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's Sanctions Guidance (2022) and reminded themselves that the purpose of a sanction is not to punish the social worker but to protect the public and the wider public interest. They have also considered the drink and drug driving policy guidance (December 2022) which states, 'in determining a sanction, the decision makers should also take account the relevant aggravating and mitigating factors'.

In determining the most appropriate and proportionate outcome in this case, the case examiners considered the available options in ascending order of seriousness. Once an appropriate level of outcome is determined, the case examiners then consider whether it is materially affected by mitigation and, if so, whether a lesser outcome might be justified.

No further action

With reference to the sanctions guidance, the case examiners are aware that no further action outcomes are rare and the factors justifying such an outcome should be exceptional in nature.

In this case, although the case examiners have identified that some of the aggravating factors hold lesser weight, the overall weight of those factors remains

sufficient to suggest that this case is not exceptional in nature. Accordingly, the case examiners are satisfied that an outcome of no further action would be insufficient.

Advice and warning order

The sanctions guidance explains that advice is intended to set out the steps a social worker should take to avoid recurrence. On this occasion, the case examiners are satisfied that the social worker has already identified the learning they have taken from their conviction. However, the case examiners are mindful that advice is a sanction, and it would constitute an adverse finding. Provision of advice in such circumstances would serve as a regulatory reminder for the social worker of what is expected of them.

In the case examiners' view, an outcome of advice could therefore be reasonable in the circumstances. However, in order to test this position, the question for the case examiners is whether advice is sufficient in this case, or if a warning order might be required in order to show disapproval and signal that if the behaviour is repeated it will result in a more severe outcome.

In principle, the case examiners consider it plausible that a warning order would be necessary in this case. This is because a conviction is a serious matter, and can adversely impact upon public confidence in the social work profession. It is also the case that if the social worker were to repeat the conduct currently before the regulator, it is highly likely that it would result in a more severe outcome.

However, in the case examiners' view, although there is clear merit to a warning order in this case, advice may be considered sufficient in light of the following mitigating circumstances:

- The case examiners have accepted that the social worker was experiencing deeply distressing personal circumstances at the time of their offence. Those circumstances would be insufficient, in and of themselves, to warrant a step down from a warning order.
- However, the case examiners are also mindful that in this case, the social worker did not consume alcohol and then immediately or shortly afterwards decide to drive. Instead, the evidence suggests the social worker did not drive until the next day.
- The case examiners are mindful that this point will have been immaterial to the social worker's conviction, and the case examiners do not seek to undermine the finding of the court. However, the case examiners consider that drink driving related offences are relevant to professional practice for two

key reasons – the fact that a professional has received a conviction, and because drink driving convictions in particular can raise question about a social worker’s judgement.

- In the case examiners’ view, there is a material and legitimate distinction to be drawn within the regulatory arena between cases where a social worker has driven shortly after consuming alcohol, and cases where a social worker has driven the next day. This is because, in the case examiners’ view, the former might suggest a greater degree of poor judgement than the latter.

In light of the above, the case examiners consider it appropriate to step down from a warning order and issue advice. The case examiners would caution, however, that it remains to be the case that any repetition would be likely to result in a more severe outcome.

With regards to the lifespan attached to the advice outcome, the case examiners are guided to consider what would be the minimum necessary lifespan to protect the public and to uphold public confidence in the social work profession. In the case examiners’ view, these objectives could be achieved with a 1 year advice outcome and, therefore, any longer outcome would be disproportionate in the circumstances. This is also in part because the case examiners would have considered a 1 year warning order appropriate, had they remained at that level of sanction, and therefore the implementation of a longer advice outcome would have a punitive effect.

The case examiners have decided to propose to the social worker advice of 1 year 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 advice

The case examiners advise the social worker as follows:

Your conduct in this case represented a significant breach of professional standards and had the potential to have an adverse impact on public confidence in you as a social worker and the social work profession.

The case examiners remind you that it is of paramount importance that you conduct yourself appropriately and in line with the law, in both your personal and professional life. The case examiners remind you of the following Social Work England professional standards (2019):

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 conduct that led to this complaint should not be repeated. Any similar conduct or matters brought to the attention of the regulator may be likely to result in a more serious outcome.

Response from the social worker

The social worker returned a completed accepted disposal response form on 14 February 2025. Within the form, the social worker provided the following declaration:

I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner 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

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

The case examiners therefore direct that the regulator enact advice with a lifespan of 1 year.