

Case Examiner Decision
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FTPS-21680

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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	2 December 2024
	Accepted disposal proposed – warning order (12 month’s duration)
Final outcome	4 December 2024
	Accepted disposal– warning order (12 month’s duration)

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 a conviction or caution in the United Kingdom of 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 regulatory concern had been presented to the case examiners with a written recommendation for closure. Having assessed all the evidence in the bundle independently, and concluding that there is a realistic prospect of adjudicators finding the concern proven on facts and grounds, and impairment, the case examiners do not support the recommendation for case closure.

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 was notified of their intention to resolve the case with a warning order of 12 month's duration; the social worker subsequently confirmed that they accepted the terms of the proposed disposal 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.

The complaint and our regulatory concerns

The initial complaint

The complainant	The concern was raised by way of a self-referral by the social worker.
Date the complaint was received	16 January 2023.
Complaint summary	The concern relates to the social worker having been convicted for driving a motor vehicle in a public place, while over the prescribed limit for alcohol.

Regulatory concerns

1. The social worker was convicted of driving a motor vehicle when above the prescribed alcohol limit.

Grounds of impairment:

The matter outlined in regulatory concern (1) amount to the statutory grounds of conviction or caution in the United Kingdom for a criminal offence.

Your fitness to practise is impaired by reason of your 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	☐

Preliminary issues that have arisen

The regulatory concern has been presented to the case examiners with a written recommendation for closure, with the case investigator citing the reason being as *“Fast track closure requested, concern is not likely to amount to a finding of impairment”*.

In determining whether the concern can be closed, the case examiners have applied the realistic prospect test, as outlined in the case examiner guidance (December 2022).

The case examiners have also noted the commentary and signposting to relevant evidence provided by the investigator. Having assessed all the evidence in the bundle independently, the case examiners are of the view that there is a realistic prospect of adjudicators finding the concern proven on facts and grounds, and also finding the social worker’s fitness to practise to be currently impaired.

As such, the case examiners do not support the recommendation for case closure.

The case examiners are aware that, in order for them to progress a recommendation for closure as a substantive case, they must be satisfied that the social worker has been advised of the grounds for investigation, and has been provided with an opportunity to provide submissions. The case examiners note that the social worker self-referred the matter to the regulator in the first instance, and that they have made full initial submissions to the regulator addressing their conduct.

In addition, the case examiners note that the recommendation for closure report records the grounds identified at triage as 'conviction (UK)', and that the social worker, in their submissions dated 15 April 2023, makes repeated references to their conviction. Whilst the relevant grounds in this case are a conviction or caution in the United Kingdom of a criminal offence; the case examiners are nevertheless satisfied that the social worker has been sufficiently advised of the statutory grounds, and has had an opportunity to provide submissions to the regulatory concern.



The case examiners have considered pausing the case to allow the social worker to make further submissions, following their amendment to the concern and their consideration of aggravating factors. However, they are satisfied that as the social worker has already provided initial submissions, and as the case examiners have proceeded to find a low risk of repetition, then it is not necessary or proportionate to

adjourn the case. The case examiners are aware of the need to consider cases expeditiously and the need to ensure fairness to all parties. They consider it proportionate and in the social worker's and public interest, to proceed to making a determination in relation to this case without further delay.

The case examiners are satisfied that their chosen course of action is consistent with their guidance.

The realistic prospect test

Fitness to practise history

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

Decision summary

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

Yes



No



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

Reasoning

Facts

1. The social worker was convicted of driving a motor vehicle when above the prescribed alcohol limit.

In their consideration of the facts in this case, the case examiners have noted the following key evidence:

The content of a 'Memorandum of an Entry entered in the Register of the [REDACTED] Magistrates' Court', for 9 January 2023 [REDACTED] This records that the social worker pleaded guilty to driving a motor vehicle on a public place, namely [REDACTED] after consuming so much alcohol that the proportion of it in their breath, namely 72 micrograms in alcohol in 100 millilitres of breath, exceeded the prescribed limit. The date of the offence is recorded as being 17 July 2022.

The court memorandum also confirms that the social worker was disqualified from driving for 18 months, with the disqualification to be reduced by 18 weeks, on completion of an approved 'drink driving' course.

The case examiners note from the court memorandum that the amount of alcohol found in the social worker's breath, was more than twice the legal limit for driving, and that they were driving on a motorway at the time of the offence.

In their submissions, the social worker states that they accept the concern raised, and describe an incident which resulted in their decision to drive while over the prescribed limit. The social worker submits that the incident resulting in them driving included them perceiving there to be a threat to their life. [REDACTED]

[REDACTED]

The case examiners note that the date provided by the social worker of the [REDACTED] incident preceding being stopped by the police is 10 July 2022. However, the date of the offence for which they were convicted, is recorded in the court memorandum as being 17 July 2022. The case examiners are of the view that it is likely that the date in the court documents is accurate, and that this discrepancy in dates is an error on the part of the social worker, rather than the [REDACTED] incident having occurred the week prior to the drink driving offence.

Having considered the key evidence as outlined above, the case examiners conclude that there is a realistic prospect of adjudicators finding regulatory concern 1 proven on facts.

Grounds

The case examiners have noted the memorandum of an entry in the relevant court register for 9 January 2023, which confirms that the social worker received the conviction as outlined in the facts for concern 1.

The case examiners are satisfied that there is a realistic prospect that adjudicators would find the grounds of a conviction or caution in the United Kingdom for a criminal offence proven.

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 consider that the conduct before the regulator, while serious, can be remedied. In their view, the alleged conduct is not fundamentally incompatible with continued registration, and the case examiners consider that the social worker could remediate by demonstrating insight and reflection into the circumstances and seriousness of their criminal offence, and providing evidence of remediation.

Insight and remediation

The case examiners do consider that they have been presented with some positive evidence of insight and remediation, although they do not consider the social worker's insight and remediation to be complete.

In their submissions, the social worker has admitted the concern and expresses regret, and states that they have attended a drink driving programme. The social worker considers that they are now *“better able to deal with any situation I find myself in, in a much more constructive and calm way”*, and that the driving course they attended enabled them to *“get a better understanding of how to avoid this in the future, and the dangers associated with alcohol use, in order to promote wider public interest and ensure the safety of road users.”*

In addition, the social worker advises that they have since abstained from alcohol, owing to the adverse impact the conviction and driving ban has had on their family.

The social worker also states that the *“need for wider public interest has added to my determination to concentrate on a positive, offending free life.”*

While the social worker has provided an explanation for their decision to drive while over the prescribed limit for alcohol, [REDACTED] they acknowledge that this does not *“justify my impaired judgement of driving under the influence of alcohol. This is one thing I wish I can take back and on reflection will never repeat itself again”*.

The case examiners are also of the view that the [REDACTED] incident described by the social worker, while providing an explanation, does not justify their decision to drive, which included driving onto a motorway, while twice over the prescribed limit for alcohol. The case examiners guidance reminds them that demonstrating insight includes appreciating what could, and should, have been done differently; addressing how else they may have acted to avoid the alleged conduct. The case examiners consider that the social worker has not fully reflected on the alternative options that were available at the time; doing so would have strengthened the social worker’s demonstration of deeper insight.

The case examiners have also noted that the social worker did not report their arrest and charge to Social Work England until after they had been convicted, around 6 months after the date of the offence. The professional standards for social workers require them to:

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.

Criminal proceedings commenced at the point of charge, and the social worker has provided no explanation for their delay in reporting the proceedings to the regulator. The case examiners’ guidance also reminds them that making an early disclosure about what has happened to those impacted, and starting remediation early may also be good evidence of insight. In delaying for six months their report of their arrest and charge, the case examiners are unable to consider the insight provided by the social worker to be ‘early’.

While the case examiners do not consider the social worker’s insight and remediation to be complete, they are nonetheless of the view that the social worker has, over time, developed positive insight. In particular, they note that the social worker, in their submissions, takes full responsibility for their actions, and has sought to address the underlying issues that may have contributed to them acting as they did, including seeking support [REDACTED], utilising a drink aware app, [REDACTED]

of the view that while the public may appreciate that the social worker needed to take steps to remove themselves from a situation where they felt they were at serious of risk of harm, the public would not consider that this justified the social worker responding in the way they did. The case examiners note that the social worker themselves, in their own submissions, state that they do not consider that their actions, which lead to their conviction, were justified by the incident preceding their decision to drive.

After carefully considering the aggravating and mitigating factors in this case, the case examiners are satisfied that a fully informed member of the public would consider the alleged conduct of the social worker to be serious, and would expect a finding of impairment to be made, together with an appropriate sanction.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the social worker's fitness to practise to be currently impaired.

The public interest

Decision summary

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

Referral criteria

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

Additional reasoning

The case examiners have considered whether a referral to a hearing may be necessary in the public interest, and have noted the following:

- There is no conflict in the evidence in this case and the social worker accepts the key facts.
- While the social worker has not indicated whether they consider themselves to be currently impaired, the case examiners' decision and proposal will allow the social worker to review the case examiners' reasoning on impairment and consider whether they accept the case examiners' findings. It is open to the social worker to reject any accepted disposal proposal and request a hearing if they wish to explore the matter of impairment in more detail.
- The case examiners are of the view that, as they have assessed the risk of repetition as low, any future risk can be managed through other sanctions available to them.
- The case examiners are also of the view that the public would be satisfied to see the regulator take prompt, firm action in this case, with the publication of an accepted

disposal decision providing a steer to the public and the profession on the importance of adhering to the professional standards expected of social workers in England.

Accepted disposal

Case outcome

Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☐
Proposed duration	12 months	

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.

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

The case examiners commenced by considering whether it may be appropriate to reach a finding of impairment, with no requirement for any further action (a no further action outcome). The case examiners were satisfied that in this case, in light of the aggravating factors, including where insight is considered to be developing rather than full, a finding of no further action would be insufficient to protect public confidence.

The case examiners have next considered whether offering advice would be sufficient in this case. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners consider that whilst they could offer advice to prevent this situation arising again, this would also not be sufficient to mark the seriousness with which they viewed the social worker's conduct and conviction.

The case examiners went on to consider a warning order, which would provide a clearer expression of disapproval of the social worker's conduct than an advice

order. The case examiners conclude that a warning order is the most appropriate and proportionate outcome in this case, and represents the minimum sanction necessary to adequately address the public's confidence in the profession. The case examiners also considered that a warning order would sufficiently mark the seriousness with which the case examiners view the social worker's conduct, and would appropriately safeguard public confidence in the social work profession, and in the regulator's maintenance of professional standards for social workers.

In reaching this conclusion, the case examiners took into account that they had found a low risk of repetition, and that the social worker had shown some positive insight and remediation, including attending a drink-driving offenders' course and reflecting on what they learned there. The social worker's alleged conviction was also not directly linked to their practise, occurring outside of work. As such, meaningful and workable conditions may be difficult to formulate. The case examiners also consider that both a conditions of practice order and a suspension order would be disproportionate in the circumstances of this case, which is not one that has fallen only marginally short of requiring removal from practise.

The case examiners therefore moved on to consider the length of the warning order, with reference to the regulator's sanctions guidance. Warning orders can be imposed for one, three or five years. The case examiners are satisfied that in this case a 12 month warning order would be sufficient to mark the seriousness of the conduct in question. In reaching this conclusion, the case examiners referred to the sanctions guidance, and noted the following:

- The guidance states that 12 months 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. The case examiners were of the view that, although they do not consider this case to be one of 'low seriousness', however in light of positive evidence of developing insight and remediation, a 12 month warning is sufficient to protect the public, and to safeguard public confidence.

To test this position, the case examiners considered the guidance in respect of a three-year order, which may be appropriate for more serious concerns, or a five-year order, for where a case has fallen only marginally short of requiring restriction of practice. The case examiners gave consideration to a longer order, but are of the view that, with the primary reason for finding impairment in this case being the public interest, a 12 month order was sufficient to protect the public, and to safeguard public confidence. Furthermore, in light of the evidence of developing insight by the social worker, the case examiners considered that a longer order would be

unnecessary and disproportionate. The case examiners are also not of the view that this is a case that has fallen only marginally short of requiring restriction to practice.

The case examiners have therefore decided to propose to the social worker a warning order of 12 month's 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 14 days to respond. If the social worker does not agree, or if the case examiners revise their decision regarding the public interest in this case, the matter will proceed to a final hearing.

Content of the warning

The case examiners formally warn the social worker as follows:

Your conduct in this case represented a significant breach of professional standards and had the potential to place members of the public at risk of serious harm, as well as having an adverse impact on public confidence in you as a social worker and the social work profession.

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

As a social worker:

5.2 I will not behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

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

Response from the social worker

On 4 December 2024 the social worker confirmed that they had:

- read the case examiners' decision and the accepted disposal guide;
- admitted the key facts set out in the case examiner decision, and that their fitness to practise is impaired;
- understood the terms of the proposed disposal of their fitness to practise case and accepted them in full.

Case examiners' response and final decision

The case examiners concluded that the social worker's fitness to practise was likely to be found impaired, but that the public interest could be met through a prompt conclusion, published decision and warning, rather than through a public hearing. They proposed a warning with a duration of 12 months and the social worker accepted this proposal.

In light of the social worker's acceptance of the warning, the case examiners have considered again whether there would be a public interest in referring this matter to a public hearing. They remain of the view that this is unnecessary for the reasons set out earlier in the decision.

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. Having done so, they remain of the view that an accepted disposal by way of a warning order of 12 months is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.