

Case Examiner Decision
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FTPS-19552

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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

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(s)	Accepted disposal - warning order (three years)
Date of preliminary decision	01 June 2023
Final outcome	Accepted disposal – warning order (three years)
Date of the final decision	21 June 2023

Executive summary

The case examiners are satisfied that there is a realistic prospect that:

1. The factual concerns could be found proven by the adjudicators;
2. Those concerns could amount to the statutory ground of misconduct
3. The adjudicators could conclude that the social worker's fitness to practise is currently impaired.

The case examiners do not consider it to be in the public interest for the matter to be referred to a final hearing and that the case can be concluded by way of accepted disposal.

As such, the case examiners will notify the social worker of their intention to resolve the case with a warning order of three years

21 June 2023

The proposed sanction was accepted by the social worker. 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.

Redactions will be applied to the published version of this decision, and in the copy shared with the complainant

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's former employer, Cambridgeshire County Council (CCC)
Date the complaint was received	27 July 2021
Complaint summary	The regulatory concerns as drafted accurately reflect the complaint.

Regulatory concerns

Whilst registered as a social worker from November 2019 and May 2021 you:

1. You placed service users at risk of harm in that you:
 - 1.1. Transported service users in your vehicle without a valid UK driving licence
 - 1.2. Transported service users in your vehicle without any car insurance.



The actions outlined at regulatory concern 1, 2 and 3 amount to misconduct.

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

Preliminary issues

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

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 **1.1 and 1.2** being found proven, that those concerns could amount to the statutory ground of **misconduct**, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst registered as a social worker from November 2019 and May 2021 you:

1. You placed service users at risk of harm in that you:
 - 1.1 Transported service users in your vehicle without a valid UK driving licence
 - 1.2 Transported service users in your vehicle without any car insurance.
- The case examiners have decided to deal with regulatory concern 1.1 and 1.2 together as they are interlinked. As part of their determination, they will refer to key pieces of evidence which they consider to be relevant.
- The police have provided evidence regarding whether the social worker was in possession of a valid licence and insurance between November 2019 and May 2021. This evidence supports the regulatory concern as drafted. The social worker's driving licence was issued abroad and would not have allowed them to

drive in the United Kingdom during the specified time period. The evidence also indicates that the social worker would have been driving uninsured.

- The case examiners have considered the specific circumstances regarding the road traffic incident in May 2021. They have had sight of the police information. There is no evidence that the social worker was transporting service users at the time of that incident. However, the case examiners note the evidence provided by CCC as part of the disciplinary interview. The witnesses provide evidence that the social worker had transported service users in their vehicle during their employment which covers the time frame outlined in the regulatory concern. The social worker's submissions corroborate the evidence of these witnesses.

The case examiners determine that adjudicators would find a realistic prospect of facts being found proven in respect of 1.1 and 1.2.

Grounds

Case investigators have indicated that the relevant statutory ground is misconduct. The case examiners are required to consider whether, if found proved, the concerns would amount to an allegation of impaired fitness to practise by reason of the statutory grounds.

- The case examiners have had sight of the relevant police documentation, which confirms that the social worker did not have a valid licence to allow them to drive within the United Kingdom nor did they have valid insurance.
- Additionally, they note the witness testimony provided by the social worker's previous employer and the social worker's submissions, which provide evidence of the social worker transporting service users in their vehicle.

The evidence suggests that the social worker may not have aligned their conduct to the following professional standards.

Standards:

2.1 Be open, honest, reliable and fair.

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

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 are satisfied that there is a realistic prospect of adjudicators establishing the statutory ground of misconduct.

Impairment

In assessing matters of impairment, the case examiners have considered the test set out in the Case Examiner's Guidance (December 2022). The case examiners have reminded themselves that the purpose of regulation is not to punish a social worker for past mistakes. Rather, the regulatory process seeks to establish whether a social worker is safe and fit to practise today and in the future. Case examiners are of the view that isolated mistakes are unlikely to be repeated if a social worker recognises what went wrong and takes action to make sure it doesn't happen again.

In considering whether the social worker is currently personally impaired, the case examiners are mindful of the following:

- is the conduct remediable?
- has the social worker undergone remediation and demonstrated insight?
- whether there is a likelihood the matters alleged will be repeated?

It may be considered that the social worker's conduct is, in principle, remediable through training, reflection which includes understanding what went wrong.

- The case examiners have had regard to the social worker's submissions and the actions he has taken since the last road traffic incident in May 2021. The social worker had provided the regulator with details of the remedial actions they have taken. [REDACTED]

[REDACTED] In addition, they have described the financial obligations they have to meet in respect of their family.

- [REDACTED]
[REDACTED] The social worker's current employer has no concerns regarding the social worker's fitness to practice.
- Whilst the social worker has expressed remorse and demonstrates some insight into their conduct, the case examiners have noted a number of aggravating features. This includes that the social worker's conduct spanned a period of two

years. Despite being involved in a road traffic incident in 2019, which required police involvement and prosecution, the social worker continued to drive and was involved in another road traffic incident approximately two years later.

- With regards to insight, the case examiners take the view that social worker's submissions do not fully address the risk they posed to the service users they transported, other social work colleagues that were in their vehicle or the wider road using public. Without appropriate vehicle insurance or a valid driving licence the social worker posed a significant risk not just to themselves but others. It appears that in choosing to act as they did, the social worker prioritised their own needs. The case examiners also note that the social worker's current employer was not aware of these matters until they were contacted by the regulator. This would appear to suggest that the social worker is not availing themselves of every opportunity to be open and transparent regarding these matters. Consequently, they are of the opinion that an element of risk remains.

Although there is evidence of the social worker taking positive steps towards remediation, the case examiners are of the view that there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is impaired on the personal element.

Public Interest

The case examiners have given consideration as to whether the social worker's actions have the potential to undermine public confidence in social workers and whether this is a case where adjudicators may determine that public interest requires a finding of impairment.

Public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public's trust and confidence in the profession.

- The case examiners are of the view that the social worker's conduct is a serious matter. 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. The social worker was involved in two road traffic incidents. The potential for causing harm to themselves or the public was high. Adjudicators may determine that the public would expect a finding of impairment recorded against a social worker who chose to drive without a valid licence and insurance and transported service users in their vehicle. Further, public confidence in the social work profession and the regulator may be undermined if a finding of impairment was not made.

- The case examiners also consider that such conduct, if proven, is a significant departure from the professional standards.

Accordingly, case examiners are satisfied that there is a realistic prospect of adjudicators finding that the social worker's fitness to practise is impaired on the public interest grounds.

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	☒
Could a removal order be required?	Yes	☐
	No	☒
Would not holding a public hearing carry a real risk of damaging public confidence in Social Work England's regulation of the profession?	Yes	☐
	No	☒
Is a hearing necessary to maintain public confidence in the profession, and 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. The case examiners have noted that it is unclear from the social worker's submissions as to whether they consider their fitness to practise to be currently impaired.

Where a social worker does not accept impairment, case examiner guidance 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.

As outlined above, the case examiners are satisfied that the matters are not so serious that a public hearing would be necessary to maintain public confidence in social workers,

or in Social Work England's maintenance of professional standards for the profession. 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. They are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them 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 note that the social worker is clear that their alleged conduct fell short of the standards expected of them. They have expressed "*regret*" and has stated that they "*let their ex-employer and the profession down*".

The case examiners recognise that not all social workers who are subject to fitness practice procedures will have a clear 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 social worker through the accepted disposal process is provided with an opportunity to review the case examiners' reasoning on impairment and reflect on whether they are able to accept a finding of impairment. The social worker can 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 expect 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	☐
Proposed duration	Three years	

Reasoning
The case examiners are satisfied there is a realistic prospect of the concerns being found proven by adjudicators. Furthermore, they have found a realistic prospect that regulatory concern 1.1. and 1.2 , if proven, would amount to the statutory grounds 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. 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 concerns. The case examiners have considered whether offering the social worker advice would be sufficient and appropriate course of action. 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 in this case, issuing advice is not sufficient to mark the seriousness with which they view the social worker's conduct.

The case examiners have given consideration to a warning order. A warning order implies a clearer expression of disapproval of the social worker's conduct than an advice order, and the case examiners concluded that a warning order is the appropriate and proportionate outcome in this case and represents the minimum sanction necessary to uphold the public's confidence. The case examiners have considered the length of time for the published warning and consider three years to be proportionate in this case. The case examiners take the view that a one year order is not sufficient to mark the seriousness of the social worker's conduct. As part of this determination, they have considered whether a five year warning would be appropriate. The case examiners note the guidance suggests five years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of registration and helps to maintain public confidence and highlight the professional standards. Whilst the social worker's alleged conduct was serious, the case examiners take the view that a five year warning would be disproportionate.

The imposition of three year warning is an extended period over which the social worker must demonstrate that there is no risk of repetition.

As part of the decision making process, the case examiners have considered whether the imposition of the next two sanctions, conditions of practice and suspension would be an appropriate disposal. They concluded that conditions were more relevant in cases requiring some restriction of practice and were not suitable for this case, due to the nature of the alleged concerns being specific to matters in the social worker's personal life and positive testimony regarding the social worker's current employment. The case examiners further considered that suspension from the register would be a disproportionate and punitive outcome in this case.

The case examiners have therefore decided to propose to the social worker a warning order of three years. 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 are aware that regarding the matters in this case the social worker has already been dealt with by the criminal justice system. Whilst it is not the purpose of the fitness to practise process to punish them for a second time, the regulator expects social workers to adhere to the professional standards and will view behaviour that falls below those standards mindful of the potential impact on public protection. To close this matter without action would, however, fail to take into account the public interest requirements of the fitness to practise process, which include the need to declare and uphold proper standards of conduct, and the need to maintain public confidence in the social work profession.

A social worker failing to adhere to the United Kingdom driving laws, creates a significant risk of harm to the others. The case examiners therefore consider a warning in this case is necessary to declare and uphold proper standards of behaviour and conduct, as well as to mark the serious impact which such behaviour can have on the reputation of the profession. Further, the case examiners consider the warning should stay on the social worker's entry in the register for a period of three years. The case examiners consider this is appropriate and proportionate in the circumstances for more serious concerns to maintain public confidence and to send a message about the professional standards expected of social workers. The period also allows more time for the social worker to demonstrate that they have successfully addressed any risk of repetition.

The case examiners therefore formally warn the social worker:

As a social worker you should be mindful that

- Reports of a social worker driving other than in accordance with the law will have an adverse effect on the public's confidence in the social work profession.
- Allegations of a social worker behaving in a risky manner are serious.
- Professional integrity in social work means upholding the values and reputation of the profession at all times. Conduct outside of work, including but not limited to criminal behaviour, can damage the confidence in the profession and the ability of social workers to support people.
- Acting in accordance with the values and principles of the profession at all times is also outlined in social work codes of ethics.

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

Standard 5.1 I will not abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

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

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 social worker responded on 19 June 2023 confirming that they accept the disposal in full

Case examiners' response and final decision

In light of the social worker's acceptance of the proposal, 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.

The case examiners have again turned their minds as to whether the proposed sanction 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 three year warning order is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.