



Case Examiner Decision
Laura Frances Stephenson
SW131950
FTPS-19612

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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	02 February 2024
	Accepted disposal proposed - warning order (3 years' duration)
Final outcome	21 February 2024
	Accepted disposal proposed - warning order (3 years' 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;



3. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory grounds of a conviction or caution in the UK;



5. 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 they 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 3 years' duration, subject to the agreement of the social worker. The social worker subsequently indicated 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. Text in **red** will be redacted from both the complainant's and the published copy of the decision.

Child A

Male A

Male B



The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's current employer.
Date the complaint was received	28 July 2021
Complaint summary	The referral alleged that the social worker had been charged by the police for an offence relating to their driving [REDACTED] that her actions had also caused harm to a child, and that her responses during the course of the police investigation raised questions regarding her integrity.

Regulatory concerns

Regulatory concerns are clearly identified issues that are a concern to the regulator. The regulatory concerns for this case are as follows:

Whilst registered as a social worker:

1. On or around 20 October 2022, you were convicted of careless driving at Derby Crown Court.



Grounds of impairment:

The matters outlined above at Regulatory Concern 1 amounts to the statutory ground of conviction or caution in the UK.

[REDACTED]

Your fitness to practise is impaired by reason of conviction/caution in the UK.

[REDACTED]

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 the concern could amount to the statutory grounds of a conviction or caution in the UK, and that the social worker's fitness to practise could be found impaired.

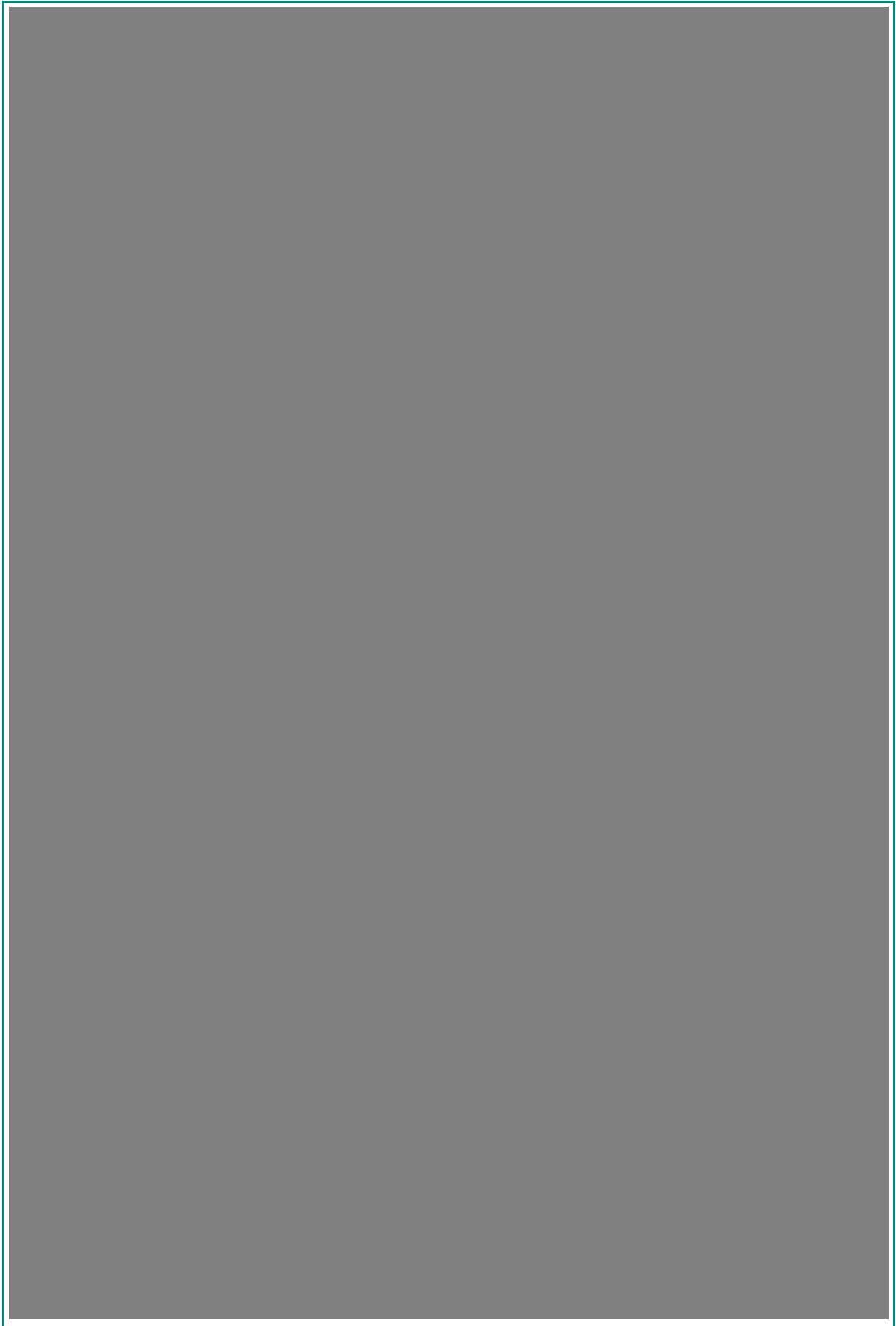
Reasoning

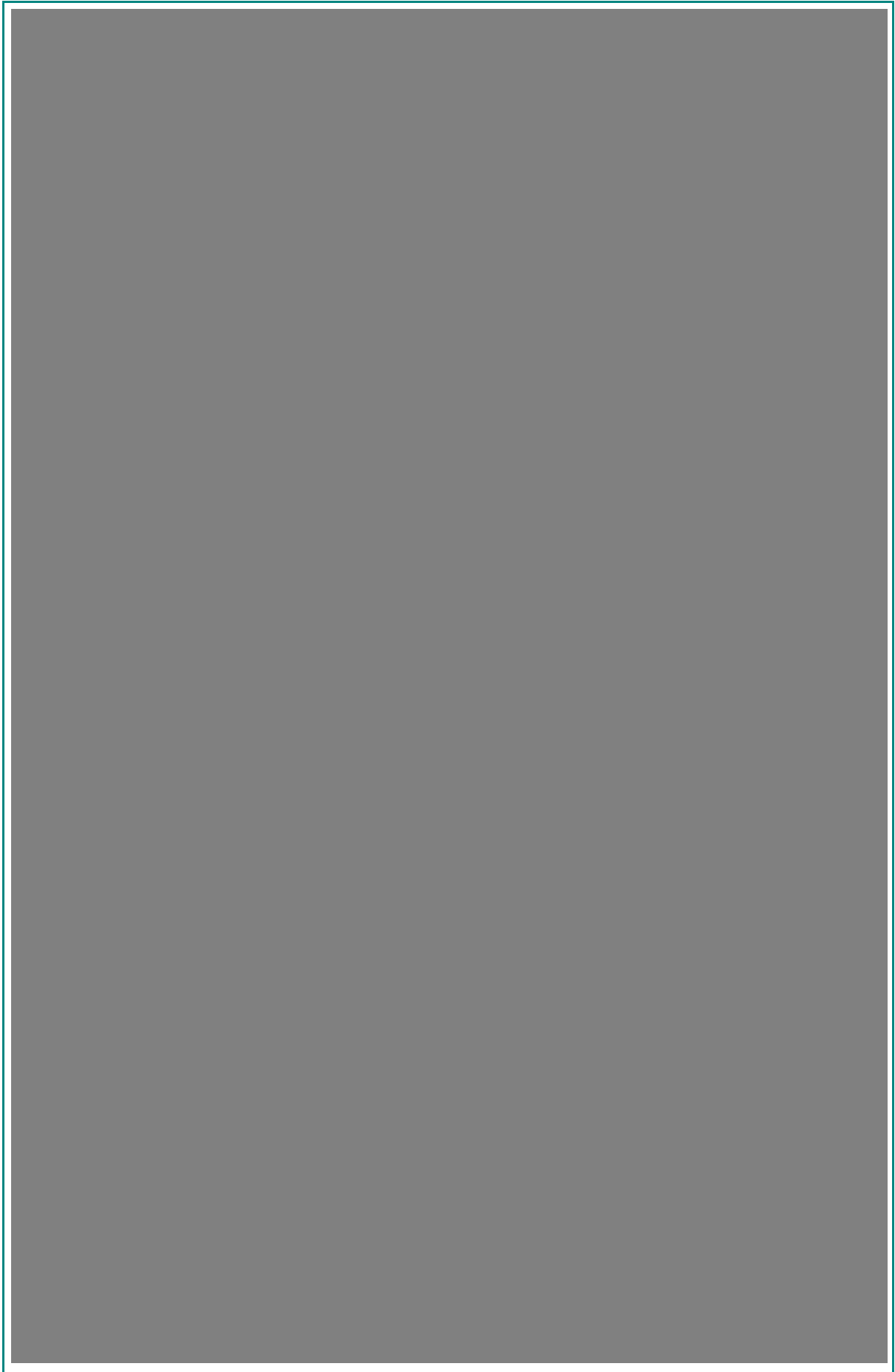
Facts

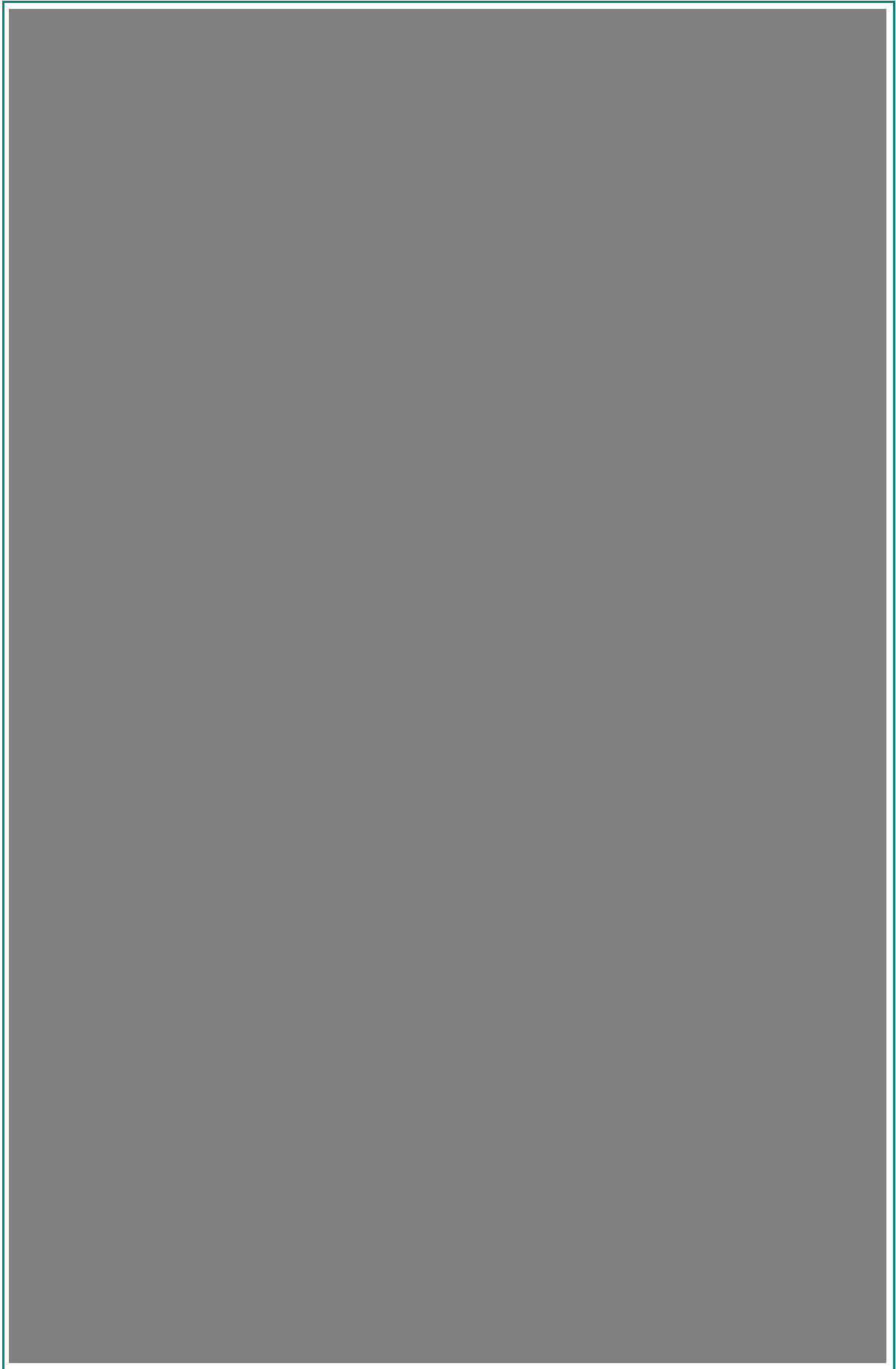
1. On or around 20 October 2022, you were convicted of careless driving at Derby Crown Court.

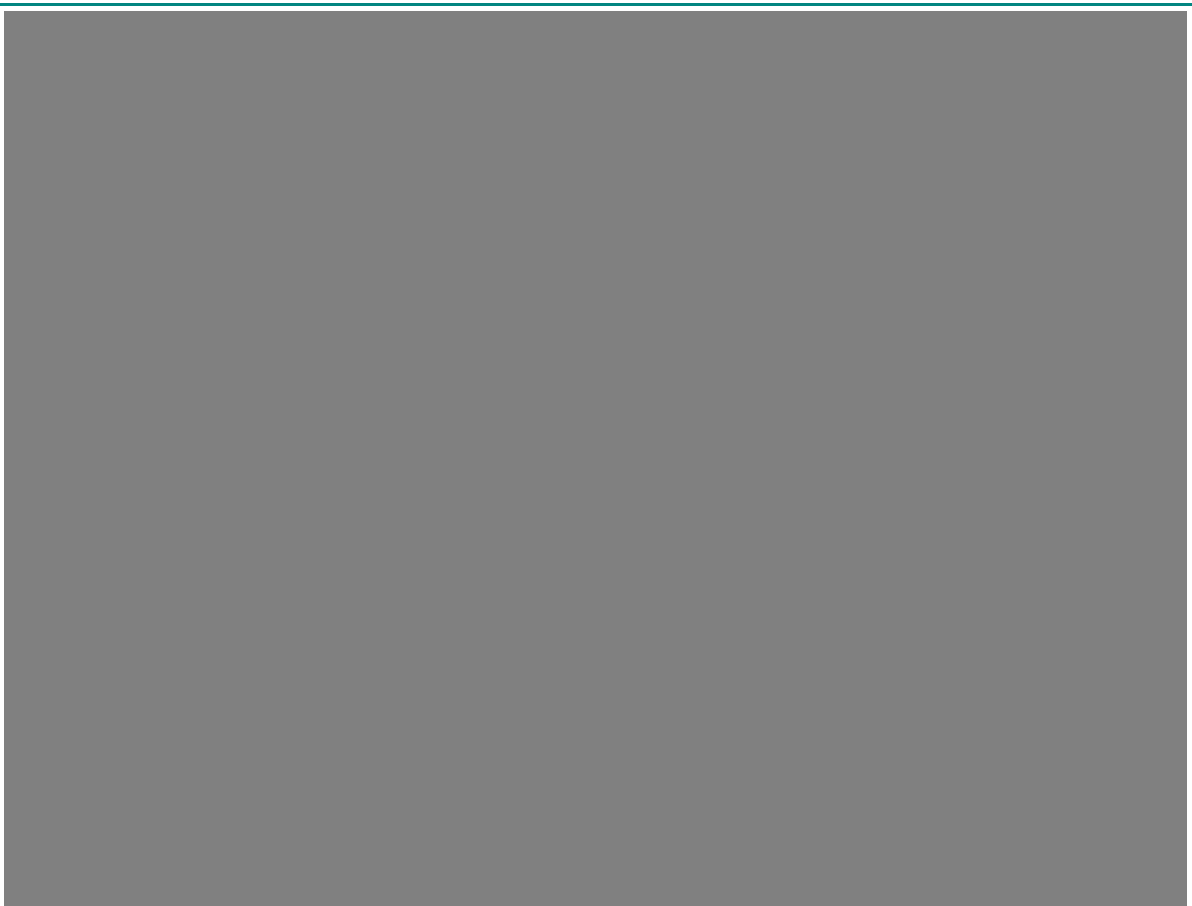
The case examiners have had sight of a certificate of conviction from Derby Crown Court. This confirms that on 20 October 2022, the social worker was convicted for an offence of driving without due care and attention.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding concern 1 proven in relation to the facts.









Grounds

The case examiners are aware that misconduct is generally considered to 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 Social Work England professional standards, which were applicable at the time of the concerns.

5.1 (Will not) Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

5.2 (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.

In relation to concern 1, the case examiners are of the view that the social worker's actions which led to the conviction for driving without due care and attention, in all the circumstances of this case, were serious. While they have not been presented with any evidence that Male B was physically harmed by the social worker driving while he held onto, or attempted to enter, the vehicle, the case examiners remain concerned that the social worker's actions did have the potential to cause serious harm. Although there is no evidence to support that the social worker drove at any significant speed, or that she drove for a distance of more than around 20 metres, there was a clear potential for Male B to fall and go under the wheel of the vehicle, which at even slow speeds has the potential to lead to serious harm or even death.

The social worker submits that there were mitigating factors for her actions with regards to her driving. She states that she was upset, distressed and angry at the time as she was responding to a phone call Child from A and believed him to be at risk harm from Male B, and also that when driving away she was trying to get Child A, Male A and herself away from Male B.

From the evidence presented to them, the case examiners do consider that the social worker was likely to be angry and upset by the situation as reported by Child A, and also when trying to locate Child A; however, they do not consider that, once located, Male B presented any immediate threat to Child A, Male A or the social worker herself. Rather, the evidence indicates that the social worker's response was confrontational and disproportionate to the situation she encountered. The case examiners do not consider that the social worker's actions in driving her vehicle without due care and attention were justified in the circumstances of this case.

The case examiners have further taken into consideration that the circumstances that led to this conviction occurred while the social worker was outside the exercise of professional practice. However, given that the social worker's actions in driving her vehicle, as alleged, were such that they exposed a member of the public to a real risk of immediate and serious harm, the case examiners are of the view that they were sufficiently serious as to bring into question her suitability to be a social worker.

The case examiners are therefore satisfied that there is a realistic prospect of adjudicators finding the grounds of misconduct proven in relation to concern 1.



Impairment

The case examiners have considered impairment in relation to concern 1 

Assessment of impairment consists of two elements:

- The personal element, established via an assessment of the risk of repetition.
- 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 social worker's alleged conduct in relation to concern 1, while serious, is capable of remediation. For example, the social worker could, through further training and/or reflection, demonstrate that she has a clear understanding of why she acted as alleged, how her actions which resulted in her

conviction fell significantly below the professional standards required of a social worker, and what she would do differently in future to avoid any repetition.

Insight and remediation

From the evidence presented to them, the case examiners are of the view that the social worker has limited insight into the reasons for the conviction and has not remediated. While the social worker pleaded guilty to the conviction, she has stated in her submissions to the regulator that she *“desperately wanted to challenge it”*, and indicates that she only accepted the conviction because of the amount of time the court process had taken, and its impact on her mental health.

Further, while the social worker states that she is mindful that she has *“take(n) responsibility for anything (she) could have done differently”*, that, on reflection, she *“could have acted differently by being calmer”*, and has *“deeply”* reflected on what she would do in future *“if presented with a similar concern”*, these reflections are not articulated within her submissions.

The social worker does set out steps they have taken to remediate her emotional responses to the events on the day in question. However, she does not address in her submissions how her driving with another person hanging from, or trying to enter, her vehicle had the potential to cause serious harm to them, or any aspect of how her driving amounted to a conviction of driving without due care and attention, and the risk to public safety. She also does not appear to consider, to any meaningful degree, the potential impact of her actions on public confidence in the profession, or on the need to maintain professional standards. The social worker does not appear to have undergone any further training, for example any driving courses, which would directly address her ability to remediate her failure to drive with due care and attention.

Risk of repetition

The case examiners have noted the social worker’s previous unblemished record, and also the positive testimonies provided by others with regards to the social worker’s character. However, in light of the limited evidence of insight and remediation, the case examiners do not consider that they have sufficient evidence to conclude that a 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.

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 have considered the seriousness of the allegations, and the evidence of potential harm being caused to Male B by the manner of the social worker's driving. They consider that the alleged actions have the potential to have a negative impact on trust and confidence in the social work profession. They also consider that a fully informed member of the public would expect a finding of impairment, if the concerns were found proven.

The case examiners conclude that there is a realistic prospect that the adjudicators would make a finding of current impairment in this case.

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 relation to the concern, and the social worker accepts the key facts.
- The social worker's submissions, to date, indicate that they do not accept that their fitness to practise is currently impaired. However, the proposed disposal will provide the social worker with the opportunity to consider the case examiners detailed rationale, and why they consider there to be a realistic prospect of adjudicators finding current impairment. The social worker can then decide whether they accept that they are currently impaired.
- The case examiners are of the view that while some risk of repetition may remain, 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	3 years	

Reasoning

In considering the appropriate outcome in this case, case examiners have had regard to Social Work England's Sanctions Guidance 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 first considered taking no further action, but are of the view that this is not appropriate in a case where a social worker has acted in a way that placed a member of the public at risk of serious harm, and does not appear to have shown full insight and remediation, indicating a potential future risk of repetition. Taking no further action would not provide the necessary level of public protection and would not satisfy the wider public interest.

The case examiners 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. Case examiners decided that issuing advice is not sufficient to mark the seriousness with which the regulator views the social worker's alleged conduct or satisfy the public interest in a case where there was evidence of potential harm being caused to a member of the public, and the social worker is not considered to have fully remediated.

The case examiners next considered issuing a warning order. The case examiners note that in circumstances where they have determined that there is some risk of repetition, the guidance suggests that a restriction to the social worker's practice is required. While a warning will not restrict the social worker's practice, the case examiners note the alleged conduct occurred in the social worker's personal life and does appear to have been out of character. The social worker has positive testimonies regarding their character and has had an otherwise unblemished career.

Further, the social worker has demonstrated some remorse and some insight, albeit limited, into why they acted as they did. The case examiners are satisfied that, whilst they have concluded that some future risk of repetition does remain, that risk is not high. In all the circumstances of this case, they are satisfied that a warning order, which serves as a clear expression of disapproval of the social worker's conduct, is the most appropriate and proportionate response, and is the minimum necessary to protect the public and the wider public interest. A warning order will also be a signal that any future repetition will be likely to result in a more severe sanction.

In considering the duration of the warning, the case examiners have had regard to the Sanctions Guidance (2022) 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. 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.'*

The case examiners are of the view that while the alleged conduct was isolated, it is not of 'low seriousness'. They note that whilst the social worker has demonstrated some insight and remediation, this is, in their view, limited. In line with the sanction's guidance, the case examiners, therefore, consider that a warning order of 3 years is more appropriate as this will allow the social worker more time to develop further insight and address any remaining risk of repetition. Further, it marks the seriousness of the conduct in this instance. The case examiners consider that a period of 3 years is appropriate in these circumstances and is the minimum necessary to maintain public confidence and to send a message to the public, the profession and the social worker about the standards expected from social workers. The case examiners considered that a 5-year duration would be disproportionate in all the circumstances of this case, particularly given that it appears to have been an isolated incident and the social worker is otherwise of good character, and hence would be unnecessarily punitive.

The case examiners did go on to consider whether the next two sanctions, conditions of practice and suspension, were more appropriate in this case. Whilst the case examiners

identified that some risk of repetition remains, they do not consider that oversight by the regulator in this instance is required, for the reasons already outlined above. The examiners also consider that suspension from the register would be a disproportionate and punitive outcome. The social worker has expressed some regret for their actions, which, while serious, appear to have been put of character, was an isolated incident, and the social worker has had an otherwise unblemished career.

To conclude, the case examiners have 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 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:

A conviction of driving without due care and attention, in all the circumstances of this case, is serious. The matters as alleged had the potential to cause real harm to a member of the public and to impact adversely on the public's confidence in the social work profession.

The conduct that led to this conviction 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.

The case examiners warn that as a social worker, you must display behaviour which does not fall short of the professional standards. The case examiners remind the social worker of the Social Work England professional standards (2019), and particularly:

As a social worker, I will not:

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.

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

This warning will remain published for 3 years.

Response from the social worker

The case examiners have had sight of the social worker's completed response form dated 16 February 2024. The social worker has signed to confirm they have read the case examiners' decision and the accepted disposal guide, and that they understand the terms of the proposed disposal (a warning order of 3 years' duration) and accept them in full.

Case examiners' response and final decision

The case examiners note that the social worker has accepted the proposed disposal as outlined by them. The case examiners have given further consideration as to whether the proposed disposal of a warning order of 3 years' duration remains the most appropriate means of disposal.

The case examiners have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e., the 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 of 3 years' duration is the minimum necessary to protect the public and the wider public interest.