

Case Examiner Decision
Christopher John Keenan
SW28345
FTPS-21337

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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	1. 12 February 2024 2. 28 October 2024 3. 13 December 2024
	1. Information requested Submissions requested 2. Accepted disposal proposed - warning order – 3 years 3. Accepted disposal proposed - warning order – 3 years
Final outcome	17 December 2024
	Warning order – 3 years

Executive summary

12 February 2024

Having considered the evidence presented to them, the case examiners paused their consideration of this case to request amendments and additions to the current regulatory concerns, as well as further information, and submissions from the social worker.

25 October 2024

Having resumed their consideration of this case, the case examiners reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1 and 2 being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concerns 1 and 2 being found to amount to the statutory grounds of misconduct.
3. For regulatory concerns 1 and 2 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 determined 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 a warning order of 3 years. The social worker accepted this proposal.

10 December 2024

The case examiners noted that their accepted disposal proposal to the social worker, dated 28 October 2024, contained an omission, specifically, with regard to the content of the warning. As such, the case examiners have amended their accepted disposal decision.

The case examiners have also been advised of further information provided by the social worker to Social Work England on 26 November 2024. The case examiners have considered the content of this communication and are satisfied that the information does not impact on their previous determination of 25 October 2024.

In light of having amended their determination to now include the warning content, the case examiners considered it appropriate and in the interests of fairness, to again notify the social worker of their intention to resolve the case with a warning order of 3 years; the social worker accepted this 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 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 complaint was raised by way of a self-referral by the social worker
Date the complaint was received	31 October 2022
Complaint summary	The self-referral states that the social worker had received a conviction, having been arrested and taken to a police station on 11 March 2022, where they were asked to provide a blood sample for analysis, which they refused to do. The issues raised are captured in the regulatory concern section below.

Regulatory concerns

Regulatory concerns as presented to the case examiners.

1. Whilst registered as a social worker on 17 May 2022, you were convicted of failing to provide a blood sample for analysis.
2. You failed to declare to the regulator that you were subject of criminal proceedings that were initiated in respect of the offence outlined at RC1 until after your conviction.

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

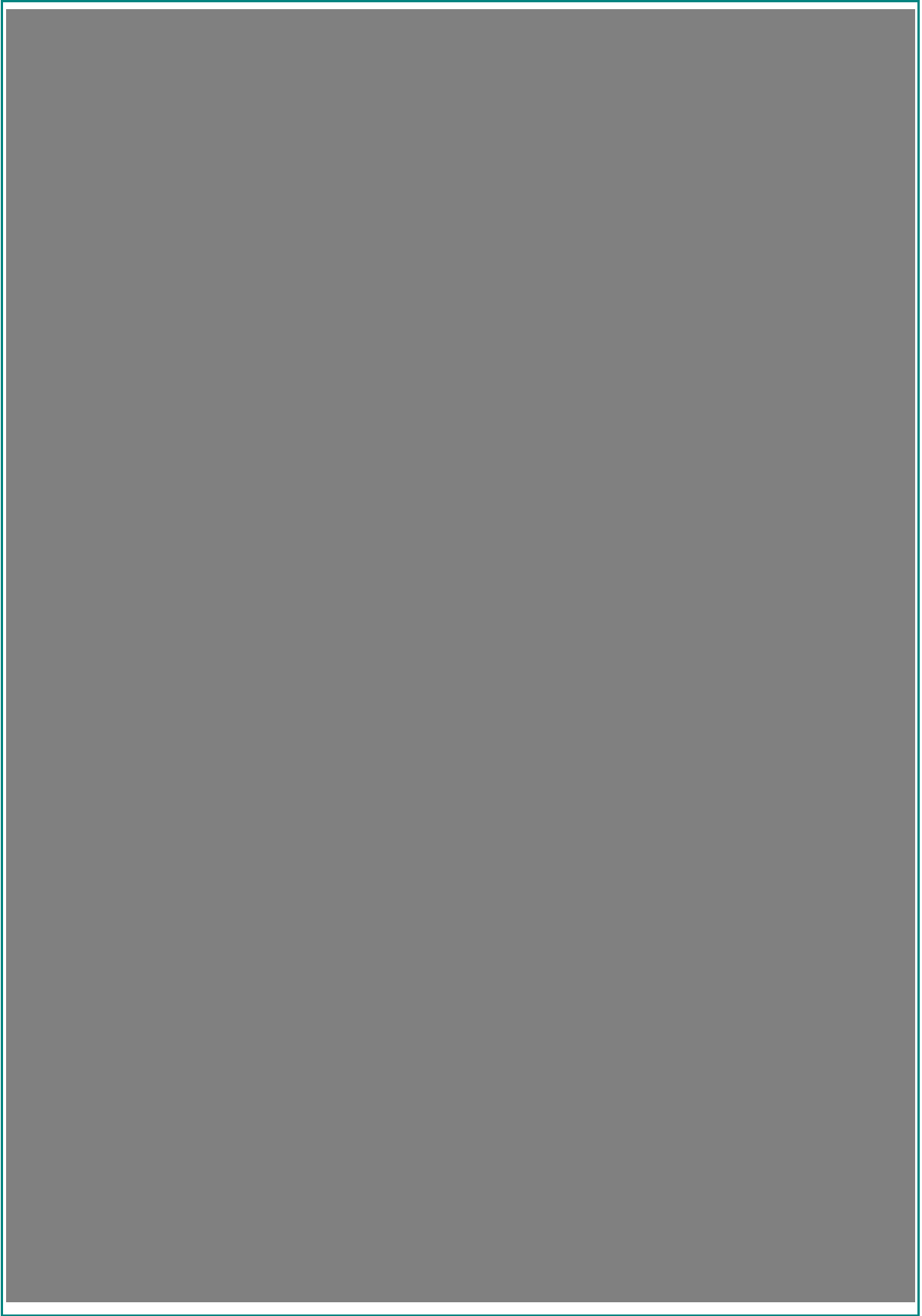
The matters outlined in regulatory concern (2) amount to the statutory ground of misconduct.

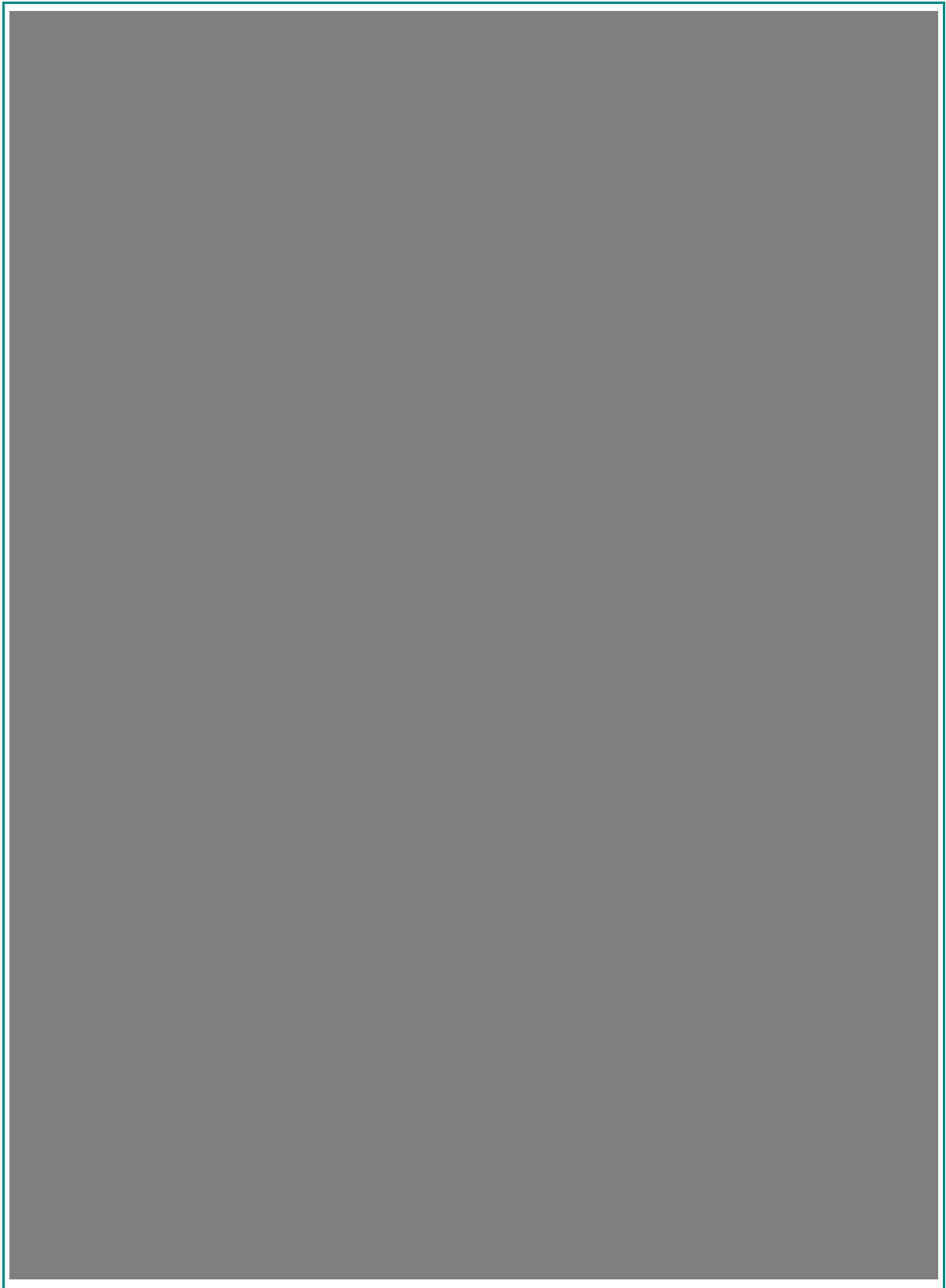
Your fitness to practise is impaired by reason of a conviction or caution in the United Kingdom for a criminal offence and/or misconduct.

Preliminary issues

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

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 concerns 1 and 2 being found proven, that those concerns could amount to the statutory grounds of a conviction or caution in the United Kingdom for a criminal offence and misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Regulatory concern 1

It is alleged that on 17 May 2022, the social worker was convicted of failing to provide a blood sample for analysis.

The case examiners have had sight of court documentation, which demonstrates that the social worker's conviction is accurately reflected in the regulatory concern.

The social worker admits the regulatory concern.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Regulatory concern 2

It is alleged that the social worker failed to declare to the regulator that they were subject to criminal proceedings that were initiated in respect of the offence outlined at regulatory concern 1 until after their conviction.

The case examiners have reviewed the evidence, and they note that:

- They have been provided with a Memorandum of an entry entered in the register of Dorset Magistrates' Court, which states the social worker was arrested on 11 March 2022 when suspected of having driven a vehicle and having been required to provide a specimen of blood for a laboratory test.
- The Memorandum of an entry entered in the register of Dorset Magistrates' Court is dated 17 May 2022 and states the social worker pleaded guilty (to the offence outlined in RC1) on 30 March 2022.
- They have had sight of an email, dated 31 October 2022, in which the social worker makes a self-referral to the regulator declaring the above conviction, more than 5 months after being sentenced, and around 7 months after the date that criminal proceedings commenced (i.e. date of arrest).

The social worker admits the regulatory concern.

Having reviewed all the evidence provided to them, the case examiners are satisfied that the social worker failed to declare to the regulator that they were subject of criminal proceedings that were initiated in respect of the offence outlined at regulatory concern 1 until a significant amount of time after their arrest and subsequent conviction.

The case examiners have therefore concluded there is a realistic prospect that the regulatory concern may be found proven by adjudicators.

Grounds

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

The case examiners have seen the court documentation relating to the social worker's conviction.

The case examiners are therefore satisfied that adjudicators would determine that the statutory ground of a conviction or caution in the United Kingdom for a criminal offence would be engaged.

The matters outlined in regulatory concern (2) amount to the statutory ground of misconduct.

The case examiners are aware that there is no legal definition of misconduct, but it generally would consist of serious acts or omissions, which suggest a significant departure from what would be expected of the social worker in the circumstances. This can include conduct that takes place in the exercise of professional practice, and also conduct which occurs outside the exercise of professional practice but calls into question the suitability of the person to work as a social worker.

To help them decide if the evidence suggests a significant departure from what would be expected in the circumstances, the case examiners have considered the following standard, which was applicable at the time of the concerns.

Social Work England Professional Standards

As a social worker, I will:

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.

Having considered the relevant standard, the case examiners have concluded that the social worker's alleged conduct could represent a significant departure, because the evidence indicates that the social worker did not notify the regulator when they were subject to criminal proceedings.

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 although the alleged conduct in this case is serious, it could nevertheless be remedied, for example, via a demonstration of reflection and full insight.

Insight and remediation

In this instance, the social worker has demonstrated some insight. For example, they have admitted the key facts, they have demonstrated some understanding of what led to the concerns, and they have acknowledged some aspects of what could (and should) have been done differently. However, case examiner guidance (paragraph 135) states that “a social worker may demonstrate insight by making full and early disclosure”. In this instance, the case examiners note that the social worker did not make an early disclosure of their arrest or conviction.

The social worker states that they did not declare the conviction earlier because they were recovering from ill-health. The social worker adds that at that time, they intended to legally challenge the conviction. However, neither of these reasons negates the need for the social worker to inform the regulator when they were subject to criminal proceedings. Furthermore, although in their submissions the social worker expresses clear remorse and accepts that “in hindsight I can see that I should have complied with the blood test as required and reported this incident to SWE earlier”, the social worker has not reflected on all aspects of what led to the concern arising.

For example, the case examiners note that they have been provided with evidence from the police into the events leading to their arrest and subsequent conviction. This evidence states that roadside breath and drugs procedures indicated that the social worker had cocaine present in their system at the time of the roadside test; however, they refused to provide a sample of blood for further analysis. This effectively frustrated the police evidence gathering process for determining accurately the amount of cocaine present in the social worker’s system.

The case examiners consider that a social worker failing to provide a sample of blood where cocaine use has been indicated by a roadside test is incompatible with a

social worker's role. However, the social worker has not demonstrated any insight or reflection in respect of this aspect of the case.

In addition, the social worker does not address the serious risk of harm they posed to the public while driving under the influence of prohibited substances, as indicated by the evidence provided by the police. The case examiners have noted that prior to their arrest, the social worker had been observed by an off-duty police officer to have been driving erratically for several miles and without lights displayed on the vehicle. Once the vehicle had stopped, the police officer observed the social worker to move "*in a slow and clunky manner as well as constantly sway(ing) as he stood and struggled to open his eyes fully*".

The case examiners acknowledge that the social worker has provided some evidence of remediation in respect of the concerns, for example, a letter from the DVLA which states the social worker has since satisfied the medical standards for safe driving. The case examiners also acknowledge that the social worker has outlined steps they have taken to remain 'sober' and provides assurances that they remain "committed to this process". In addition, the social worker has received a positive testimonial from their employer, who did not raise any concerns about the social worker's sobriety.

However, in the absence of the social worker specifically addressing the background to their refusal to provide blood, i.e. evidence of cocaine use, and the risk they posed to the public of driving in the way described, the case examiners have concluded that the insight and remediation demonstrated by the social worker is partial.

Risk of repetition

Although the case examiners have concluded that the social worker's conduct is remediable and that they have demonstrated some remediation, they have also concluded that the insight demonstrated is partial, and therefore, that some risk of repetition remains.

Public element

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

The case examiners consider that a member of the public, fully informed of all of the circumstances of this case, would be concerned that a social worker had been convicted of failing to provide a blood sample for analysis, and that they had failed to declare to the regulator when they were subject to criminal proceedings.

The case examiners consider that the public would also be concerned by the aggravating features of this case, particularly the fact that the social worker's conviction was one which resulted in them being placed on the Driver and Vehicle Licensing Agency's High Risk Offender Scheme, and that following preliminary breath and drugs procedures returning a positive indication for the presence of cocaine, the social worker refused to engage with a blood test for a more accurate assessment of drug consumption. As such, the case examiners consider that a fully informed member of the public would expect a finding of impairment.

Having considered both the personal and public elements, the case examiners have concluded there is a realistic prospect that adjudicators would find the social worker 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 noted the following:

- There is no conflict in evidence in this case and the social worker accepts the facts.
- The social worker accepts that their conduct fell short of the standards expected of them, and they state that they regret their actions.
- The case examiners are of the view that the risk of repetition can be managed through the sanctions available to them, and that they are able to satisfy the public that any risk is being managed without the need for a referral to a public hearing.
- While the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired, the accepted disposal process will provide 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	Warning order – 3 years.	

Reasoning

The case examiners are satisfied there is a realistic prospect of the concerns being found proven by adjudicators. Furthermore, they found a realistic prospect that the concerns, if proven, would amount to the statutory grounds of criminal conviction or caution in the United Kingdom for a criminal offence (in respect of regulatory concern 1); and misconduct (in respect of regulatory concern 2). The case examiners have also found a realistic prospect that adjudicators would find the social worker's fitness to practise is currently impaired.

In considering the appropriate outcome in this case, the case examiners had regard to Social Work England's Impairment and 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.

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.

No further action

The case examiners considered taking no further action but decided that this would not be appropriate in this instance because it would not provide the necessary level of public protection and would not satisfy the wider public interest.

Advice or warning

The case examiners next considered whether offering advice or a warning would be sufficient. An advice order will normally set out the steps a social worker should take to address the behaviour that led to the regulatory proceedings. The case examiners believe that issuing advice is not sufficient to mark the seriousness with which they view the alleged misconduct or satisfy the wider public interest.

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 that the social worker has an otherwise unblemished career.

Further, the social worker has demonstrated some remorse and some insight and remediation, which the case examiners consider the social worker can continue to build on. The case examiners are satisfied that whilst they have concluded that some future risk of repetition does remain, they do not consider that risk to be high, and 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 repetition will be highly 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 the alleged conduct would not be considered of 'low seriousness,' particularly given the aggravating factors. They note that whilst the social worker has demonstrated some insight and remediation, this is not considered to be complete. 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, and hence would be unnecessarily punitive.

The case examiners went on to consider whether the next 2 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; conditions would also be unworkable where the conviction related solely to actions that occurred in the social worker's private life.

The case examiners also consider that suspension from the register would be a disproportionate and punitive outcome. The social worker has expressed regret for their conviction, which, while serious, appears to have been isolated, 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:

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 warn that as a social worker, it is important that you conduct yourself appropriately and in line with the law, 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, 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 are likely to result in a more serious outcome.

Response from the social worker

25 November 2024

The social worker responded on 25 November 2024. They returned the accepted disposal response declaration, confirming that they had:

- Read the case examiners' decision and the accepted disposal guidance.
- Admitted the key facts set out in the case examiners decision, and that their fitness to practise was impaired.
- Understood the terms of the proposed disposal of their fitness to practise case and accepted them in full.

10 December 2024

The case examiners noted that the content of the warning had been omitted from their determination of 28 October 2024. They have therefore amended the accepted disposal decision and offered the social worker a further 14 days to respond.

In addition, the case examiners were provided with an email sent by the social worker to the regulator, dated 29 November 2024. The case examiners note that they are not able to amend a sanction once offered via the accepted disposal process, and they do not consider that comments made by the social worker materially alter their determination. As such, the case examiners remain of the view that offering an accepted disposal warning order of 3 years remains appropriate and is sufficient to satisfy the public interest in this case. However, the case examiners do acknowledge the social worker's comments, and they note that the social worker has further reflected on and demonstrated remorse in relation to their alleged conduct, and also continues to experience significant personal challenges.

Case examiners' first response

26 November 2024

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 case may be fulfilled through the accepted disposal process.

The case examiners therefore request that the social worker is again informed of their proposed warning order, with a duration of 3 years, and is provided with a further 14 days to respond; with permission granted for the regulator to provide additional time at their discretion to account for the festive holiday period. 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.

Response from the social worker

17 December 2024

The social worker responded on 17 December 2024. They returned the accepted disposal response declaration, confirming that they had:

- Read the case examiners' decision and the accepted disposal guidance.
- Admitted the key facts set out in the case examiners decision, and that their fitness to practise was impaired.
- Understood the terms of the proposed disposal of their fitness to practise case and accepted them in full.

Case examiners' second and final response

17 December 2024

The case examiners are satisfied that the social worker has read and accepted the proposed accepted disposal of a 3-year warning order.

The case examiners have again 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 case can be fulfilled through the accepted disposal process.

The case examiners therefore direct that Social Work England implement a warning order of 3-years duration.