

Case Examiner Decision
Joseph Casey – SW88433
FTPS-20980

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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	11 April 2024
	Accepted disposal proposed -removal order
Final outcome	13 May 2024
	Accepted disposal -removal order

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of both regulatory concerns being found proven by the adjudicators.
2. There is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence. There is a realistic prospect of regulatory concern 2 being found to amount to the statutory ground of being included by the Disclosure and Barring Service in a barred list.
3. For both regulatory concerns 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 removal order. 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 [REDACTED] will be redacted only from the published copy of the decision, and will therefore be shared with the complainant in their copy. Text in [REDACTED] will be redacted from both the complainant's and the published copy of the decision.

In accordance with Social Work England's fitness to practise proceedings and registration appeals publications policy, the case examiners have anonymised the names of individuals to maintain privacy. A schedule of anonymity is provided below for the social worker and complainant, and will be redacted if this decision is published.

Person X	[REDACTED]
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The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by Cleveland Police's, Disclosure and Barring Team.
Date the complaint was received	4 August 2022
Complaint summary	The social worker was arrested and charged by the police, and was subsequently convicted at court, for three offences of voyeurism. These related to the social worker installing recording equipment to observe Person X doing private acts (such as undressing). The social worker received a six month prison sentence, suspended for 24 months, after pleading guilty to all charges. In addition to a suspended sentence, the social worker was placed on the Sexual Offenders Register for 7 years, and made subject to a Sexual Harm Prevention Order for 7 years. During the course of Social Work England's investigation, it has come to light that the social worker has been included on the Disclosure and Barring Service (DBS) barring list for adults and children.

Regulatory concerns

Whilst registered as a social worker:

1. On 27 June 2023 you were convicted of 3 voyeurism offences committed between 1 January 2022 and 29 July 2022, contrary to section 67 (3) and (4) and (5) of the Sexual Offences Act 2003.

2. On 19 October 2023 you were included in the children and adults barring lists maintained by the Disclosure and Barring Service.

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

The matter outlined at regulatory concern (2) amounts to the statutory ground of being included by the Disclosure and Barring Service in a barred list.

Your fitness to practise is impaired by reason of a conviction or caution in the United Kingdom for a criminal offence and being included by the Disclosure and Barring Service in a barred list.

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 both regulatory concerns being found proven. They have concluded that there is a realistic prospect of regulatory concern 1 being found to amount to the statutory ground of a conviction or caution in the United Kingdom for a criminal offence, and a realistic prospect of regulatory concern 2 being found to amount to the statutory ground of being included by the Disclosure and Barring Service in a barred list. The case examiners have also determined that there is a realistic prospect that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

- 1. On 27 June 2023 you were convicted of 3 voyeurism offences committed between 1 January 2022 and 29 July 2022, contrary to section 67 (3) and (4) and (5) of the Sexual Offences Act 2003.**

The case examiners have had sight of the memorandum of entry from the Crown Court. This details the social worker being convicted for the offences, as captured by the regulatory concern.

The social worker admits the regulatory concern.

The case examiners are satisfied that there is a realistic prospect of the concern being found proven by adjudicators.

2. On 19 October 2023 you were included in the children and adults barring lists maintained by the Disclosure and Barring Service.

The case examiners have had sight of a final decision letter to the social worker from the Disclosure and Barring Service (DBS) dated 19 October 2023. This confirms the decision was taken by the DBS to include the social worker in the Children's Barred List and the Adults' Barred List.

The social worker admits the regulatory concern.

The case examiners are satisfied there is a realistic prospect of this concern being found proven by adjudicators.

Grounds

The first statutory ground being considered by the case examiners is that of a conviction or caution in the United Kingdom for a criminal offence.

The case examiners have had sight of the court documentation detailed above and they are satisfied that the documentation provided sufficiently evidences the conviction.

The second statutory ground in this case is impaired fitness to practise due to being included by the Disclosure and Barring Service in a barred list.

The case examiners have had sight of a final decision letter to the social worker from the DBS that confirms the decision to include the social worker in the Children's Barred List/Adults' Barred List.

The case examiners are satisfied that there is a realistic prospect of adjudicators establishing both statutory grounds.

Impairment

Having concluded there is a realistic prospect of adjudicators establishing the statutory grounds, the case examiners must consider whether there is a realistic prospect of adjudicators finding current impairment. The case examiners are aware they must assess both the personal and public elements of current impairment. They will consider each in turn.

Personal element

The case examiner guidance states that there are multiple factors that case examiners should look for when considering the personal element of impairment, in order to assess the risk of repetition. These include, whether the social worker has admitted the allegations, if they have demonstrated insight, if they have evidenced remediation, any relevant previous history, and any testimonials that have been provided.

Relevant previous history

There is no previous history for the case examiners to take into account.

Admissions

The social worker has made full admissions to the regulatory concerns.

Insight

In respect of insight, the case examiners are aware that they must take care to assess the quality of any insight. A social worker may accept they have acted wrongly. However, simply asserting this is unlikely to be enough to demonstrate genuine insight.

In their submissions the social worker appears to suggest they are still working towards understanding what led to the acts which resulted in their convictions. They state:

- '.... [redacted] to make sense of why I commit (sic) such an horrendous act in the first place'.

- [redacted]

The social worker does not yet seem able to identify the root cause of their actions, but is taking steps towards this. As such they have not yet been able to demonstrate what they have put in place to avoid reoccurrence of similar concerns.

When assessing insight, it is also important to establish if the social worker demonstrates a genuine understanding of the impact of their actions on others, and the profession. The case examiners highlight the following submissions that suggests the social worker does have this understanding:

- 'I am ashamed of my actions, spend my waking hours in deep remorse for the harm that this has caused to (Person X) and everyone else involved.'

- [REDACTED]
- *'Being unable to repair the damage to (Person X) is a pain that I will live with for the rest of my life and my greatest wish is that (Person X) can go on to live a normal and happy life.'*
- *'I need to indicate that I am acutely aware of the impact that this has on Social Work and Social Workers as a whole. I sincerely apologise for this. I am taking steps to rebuild my life and regret that my actions may place Social Workers and the profession of Social Work in a negative light.'*
- *'I am aware that I have effectively obliterated any chance of working in an area of trust with others and am engaging with employment support in order to find appropriate work. I am deeply ashamed of my actions and the impact it has had on everyone that I have ever held dear. I appreciate the negative light my actions have placed upon Social Work as a profession and for what it is worth, I apologise wholeheartedly.'*
- *'I fully understand the wider impact in respect of public confidence in social workers. I despise myself for putting the reputation of social work in question and would do anything I possibly could to change that. I realise that this may have an impact on my former colleagues, many of whom were what I would class as close friends and no longer speak to me. I understand their already difficult role and the negative labelling they have through no fault of their own, and am devastated that I may contribute further to this.'*

Employment reports and testimonials

There are no employment reports or testimonials to take into account. The case examiners are aware that the social worker is currently subject to an interim suspension order and as such has not been practising. The regulatory concerns do not relate to professional practice so the inclusion of any such reports would not carry significant weight in the case examiners' decision making.

Remediation

The matters that led to the social worker's conviction, by their nature, give rise to serious attitudinal concerns. These can inherently present a significant challenge to remediation. Nonetheless, the social worker describes the attempts they are making to remediate by

[REDACTED] The case examiners have not had sight of any objective information to support the social worker's assertions.

In their submissions, the social worker appears to recognise that they are still in the process of attempting to understand why their offending behaviour occurred, in their efforts to remediate.

In respect of the social worker being included by the DBS on the children and adults barring list, this is a matter that will continue indefinitely. By its nature, it is not possible to remediate the engagement of this statutory ground.

Risk of repetition

The purpose of case examiners assessing multiple factors when considering the personal element of impairment, is to assess the risk of repetition, put simply, the likelihood of the conduct happening again.

The nature of the offending behaviour that led to the social worker's conviction gives rise to serious, potentially deep-seated, attitudinal concerns. Such concerns can inherently create a risk of repetition.

The letter from the Disclosure and Barring Service to the social worker states their inclusion in the barred lists will last indefinitely. As such, this must translate into a risk of repetition, as the inclusion is continuous.

Further, the case examiners have concluded that the social worker's insight is developing, but incomplete. By the social worker's own submissions, it appears that it could be a lengthy process for them to gain full insight and understand what caused them to offend in the manner for which they were convicted.

The information reviewed leads the case examiners to conclude that there is a risk of repetition.

Public element

The case examiners consider that a social worker being convicted for sexual offences and being placed on the Sexual Offenders Register (in the social worker's case for 7 years), would be of huge concern for a reasonable member of the public.

A social worker being included by the Disclosure and Barring Service in a barred list undoubtedly has the potential to undermine public confidence.

The matters that gave rise to this case would be considered a significant departure from Social Work England professional standard 5.2, which states that a social worker 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.

Regulatory concerns such as these in the social worker's case, go to the heart of public confidence in the social work profession. They have the potential to significantly undermine the public's trust in social workers.

As such, it is likely the public would expect that a finding of current impairment is made by adjudicators to maintain public confidence in regulation of the profession.

The case examiners note that the social worker states:

- '..... I admit to the regulatory concerns. I accept that my fitness to practice (sic) is currently impaired and will remain so'.

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 consider that there is no public interest in referring this case to a hearing, and that it is reasonable to offer accepted disposal in this case, because:

- There is no conflict in evidence in this case and the social worker accepts the facts.
- The social worker is clear that they accept that their conduct fell short of the standards expected of them.
- The case examiners are of the view that the risk of repetition can be managed, and they have a number of sanctions available to them in order 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 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.

Interim order

An interim suspension order is already in effect.

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☐
	Conditions of practice order	☐
	Suspension order	☐
	Removal order	☒
Proposed duration	Where a social worker is removed from the register, there is no defined end to the finding of impairment. A social worker that has been removed from the register may only apply to be restored to the register 5 years after the date the removal order took effect. The adjudicators will decide whether to restore a person to the register.	

Reasoning

In considering the appropriate outcome in this case, the case examiners 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:

No further action, Advice, Warning

The case examiners are aware that where a social worker's fitness to practise is potentially impaired, they will usually need to ensure the public is protected through some action by the regulator. The case examiners have decided that such protection cannot be met by taking no further action, issuing advice, or providing a warning order.

Social Work England's sanction guidance states that an outcome of no further action will not be appropriate where there is any continuing risk to the public of the social worker behaving in the same way again. The same guidance goes on to say that an outcome of

advice or a warning is not appropriate where the social worker poses a current risk to the public, given that neither sanction directly restricts a social worker's practice. The case examiners have determined that there is a risk of repetition in this case, and therefore none of the three sanctions detailed above are appropriate.

Conditions of practice

The case examiners went on to consider conditions of practice. They concluded that conditions were more relevant in cases requiring some restriction in practice and were not suitable for this case that centres around a matter of conviction. Further, it would not be possible to formulate workable conditions given the potential attitudinal concerns that exist in this case, and due to the social worker being included on the DBS barring list, meaning they would not be able to gain social work employment.

Suspension

The case examiners considered a suspension order.

The case examiners are of the view that the concerns represent a serious breach of the professional standards. Whilst the social worker has demonstrated some insight, the evidence suggests the social worker is unable to remediate their failings given that they are included in a barring list by the DBS preventing them from working with vulnerable adults or children.

Further, the case examiners have taken into account the case examiner guidance which states a removal order must be made where the decision makers conclude that no other outcome other than removal would be enough to (do one or more of the following):

- Protect the public
- Maintain confidence in the profession
- Maintain proper professional standards for social workers in England

Given the nature of the concerns, the case examiners are of the view that all three of the above points apply in this case.

Accordingly, a suspension order is not appropriate.

Removal

In concluding that no other outcome than removal would be enough to protect the public, maintain confidence in the profession, or maintain proper professional standards for social workers in England, the case examiners took into account the sanctions

guidance. In particular they noted the examples given where a removal may be appropriate, and identified that three were applicable in this case. Specifically:

- Criminal convictions for serious offences
- Sexual misconduct (which can be due to convictions for sexual offences)
- A social worker who is unable to remediate

The case examiners also noted the sanctions guidance where it states that, in all cases of serious sexual misconduct, it will be highly likely that the only proportionate sanction is a removal order.

The case examiners have determined that, in all the circumstances, a removal order is necessary in this case.

The case examiners will notify the social worker of their proposal to issue a removal order and will seek the social worker's agreement to dispose of the matter accordingly. The social worker will be offered 28 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.

Response from the social worker

The social worker initially responded on 7 May 2024, requesting that some elements of the decision were amended to ensure confidentiality to Person X. The case examiners reviewed their decision and amended the decision according.

The social worker provided a subsequent response on 7 May 2024 and confirmed *'I have read the case examiners' decision and the accepted disposal guide. I admit the key facts set out in the case examiner decision, and that my fitness to practise is impaired. I understand the terms of the proposed disposal of my fitness to practise case and accept them in full.'*

Case examiners' response and final decision

The case examiners 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, by

way of a removal order, rather than through a public hearing. They proposed this to the social worker who accepted this proposal.

In light of the social worker's acceptance of the removal order, 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 removal order 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 removal order is a fair and proportionate disposal, and is the minimum necessary to protect the public and the wider public interest.