



Case Examiner Decision

Andrew Clayton – SW22324

FTPS-19838

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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	01 September 2023
	Accepted disposal proposed - warning order 5-years
Final outcome	22 September 2023
	Accepted disposal - warning order 5-years

Executive summary

The case examiners have reached the following conclusions:

1. There is a realistic prospect of regulatory concerns 1-4 being found proven by the adjudicators.
2. There is no realistic prospect of concern 5, that was presented with a recommendation for closure, being found proven by the adjudicators. This concern has, therefore, been closed at the facts stage.
3. There is a realistic prospect of regulatory concerns 1-4 being found to amount to the statutory grounds of misconduct.
4. For regulatory concerns 1-4, there is a realistic prospect of adjudicators determining 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 notified the social worker of their intention to resolve the case with an accepted disposal – warning of 5-years duration. On 20 September 2023, the social worker responded to the proposal, which they accepted 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.

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

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.

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.

LA (1)	
LA (2)	
LA (3)	

The complaint and our regulatory concerns

The initial complaint

The complainant	The complaint was raised by the social worker's current employer, [REDACTED] (thereafter referred to the Trust)
Date the complaint was received	02 July 2021
Complaint summary	Since July 2019, the social worker was employed as a Band 7 social worker, within the Forensic Intensive Recovery and Support Team (FIRST). The social worker was also approved and authorised to act as an Approved Mental Health Professional (AMHP) on behalf of [REDACTED] The Trust notified Social Work England of an investigation into concerns that the social worker had simultaneously worked for multiple organisations, and in doing so, potentially failed to safeguard service users. It is also alleged that the social worker falsified travel expenses. The social worker received a final written warning and was required to pay back the hours overclaimed.

Regulatory concerns

Whilst employed as a registered social worker for [REDACTED]

- 1) Between August 2019 and December 2020 You undertook on call work for one or more different organisations at the same time.
- 2) You failed to safeguard service users.
- 3) You submitted false and inaccurate travel expenses
- 4) Your conduct in RC.1, and RC.3 was dishonest

By reason of RC.1, RC.2, RC.3, and RC.4 your fitness to practise as a social worker is impaired by reason of misconduct.

Concern being recommended for closure



Triage determined that these concerns should be investigated under the grounds of misconduct.

Concerns being recommended for closure are concerns raised by the complainant, for which no evidence has been found during the investigative process or where the evidence obtained negates the concern(s). Decisions regarding concerns being recommended for closure remains the remit of the case examiners.

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

27 July 2023

The case examiners are aware of the need to consider cases expeditiously and the need to ensure fairness to all parties. In this case, bearing in mind their investigatory function and statutory duty, the case examiners have determined to adjourn their consideration of the case to ask the investigators to make a material amendment to the following:

Regulatory concern 2 - *You failed to safeguard service users.*

By reason of RC.2, your fitness to practise as a social worker is impaired by reason of lack of competence or capability.

The case examiners consider that the statutory ground of impairment by reason of lack of competence or capability is wrong as there is no evidence to suggest that the social worker's performance was unacceptably low or that they lack the knowledge or skills to be competent. The case examiners are unclear if this was a clerical error as the investigator correctly cited misconduct in respect of regulatory concern 1, which is intrinsically linked to regulatory concern 2. As such, the case examiners request that the investigators change the statutory ground to impairment by reason of misconduct. As follows:

Regulatory concern 2 - *You failed to safeguard service users.*

By reason of RC 2, your fitness to practise as a social worker is impaired by reason of misconduct.

The case examiners respectfully request that the investigators promptly notify the social worker of the material amendment with the opportunity for them to provide further comments.

08 August 2023

The case examiners have received an updated evidence bundle with the correct statutory ground of impairment. They have proceeded to consider the case in full.

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, 2, 3 and 4 being found proven; that those concerns could amount to the statutory grounds of misconduct, and that the social worker's fitness to practise could be found impaired.

Reasoning

Facts

Whilst employed as a registered social worker for [REDACTED]

- 1) *Between August 2019 and December 2020 You undertook on call work for one or more different organisations at the same time.*

The Trust's referral, dated 02 July 2021, alleges that the social worker regularly undertook agency work for local authorities LA (2) and LA (3) covering their on-call requirements at the same time as performing their substantive role within the FIRST team, across secure care and offender health. They state this was in breach of their contract of employment with LA (1)

- Disciplinary Investigation

The social worker's team manager, the Head of Forensic social work, provides a timeline when the concerns were first raised following an email, around 30 September 2020, to all AMHP's from LA (1) instructing them to disclose any additional working with other LA's. The social worker made them aware that they had double booked one day on the LA (1) rota with LA (2), which was deemed to be a mistake. In October 2020, LA (1) then contacted the Trust requesting information regarding the social worker's working arrangements.

The service manager's statement, dated 10 February 2021, confirms the social worker's core hours as 9am to 5pm and that they were on a forensic on-call rota from 5pm-9am on weekdays, and at weekends between 9am-9am.

- Shift logs

The case examiners have had sight of on-call agency work shift logs confirming duplication of on-call work from 07 August 2019-31 December 2020 and also a list of agency shifts undertaken for LA (1) out of hours by the social worker.

In conclusion, the disciplinary documentation detailed above, alongside the agency on-call shift log evidences that, between 07 August 2019 and 31 December 2020, the social worker had double booked on-call work on at least 34 occasions and on 27 October 2019 they were available for on-call work with three local authorities.

Social Worker comments and submissions

From the outset, the social worker admitted to having booked double shifts, initially stating this being in error but later knowingly accepted agency shifts during their substantive

working hours. Within their submissions, the social worker accepts the concerns and takes full responsibility.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the regulatory concern proven

2) *You failed to safeguard service users.*

The case examiners note that within the disciplinary outcome letter, 18 June 2021, the Trust reflects concerns about the safety of patient/service users when the social worker was double booked. The social worker has explained that they felt responsible to all the various authorities and did not want to let anyone down. Whilst the social worker acknowledged patient safety as being paramount, they recognised the 'what if's' scenarios which caused them anxiety.

Within their submissions, the social worker fully accepts that due to the simultaneous tasks they assumed, service users were placed at potential risk of harm even though no individual service users were caused actual harm by their actions.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the regulatory concern proven

3) *You submitted false and inaccurate travel expenses*

During the investigatory interview on 13 April 2021, the social worker confirms that they had disclosed to the manager they had falsely claimed mileage over a period of around 12 months. They could not fully explain the reasons why this did this, but states that a nurse colleague had mentioned that they recorded a particular agile work base in order to claim more mileage. Following this, the social worker reports that on occasions, they recorded this work base even though they may not have been working from there.

Within an investigatory statement, dated 10 February 2021, the team manager confirms that they electronically authorised the social worker's mileage claims although they did not calculate individual submissions as they did not think this was their role to do so. The manager confirms that practitioners worked 'agile' from various work bases, and visits should have been diarised on electronic diaries. Within an email to the regulator, dated 24 May 2023, the manager confirms that mileage during the day is claimed for visits from a person's agile work base. At night, mileage is claimed from home to the visit and return.

The case examiners have had sight of an audit of the business mileage expenses claimed by the social worker from 22 Jul 2019-31 December 2020 which appears to support that allegation that the social work has claimed mileage from locations they were not working from.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the regulatory concern proven

4) *Your conduct in RC.1, and RC.3 was dishonest*

The case examiners have found a realistic prospect of the facts at regulatory concerns 1 and 3 being found proven by the adjudicators. They will now consider whether the social worker's actions are likely to be considered dishonest.

In order for the case examiners to do so, it is necessary to consider what the social worker knew, or what they believed to be true (subjective test). Secondly, they will consider whether the social worker's conduct could be deemed as dishonest by the standards of an ordinary, decent person (the objective test).

In regard to the subjective test, the case examiners note the social worker accepts their dishonesty and has taken full responsibility for their actions.

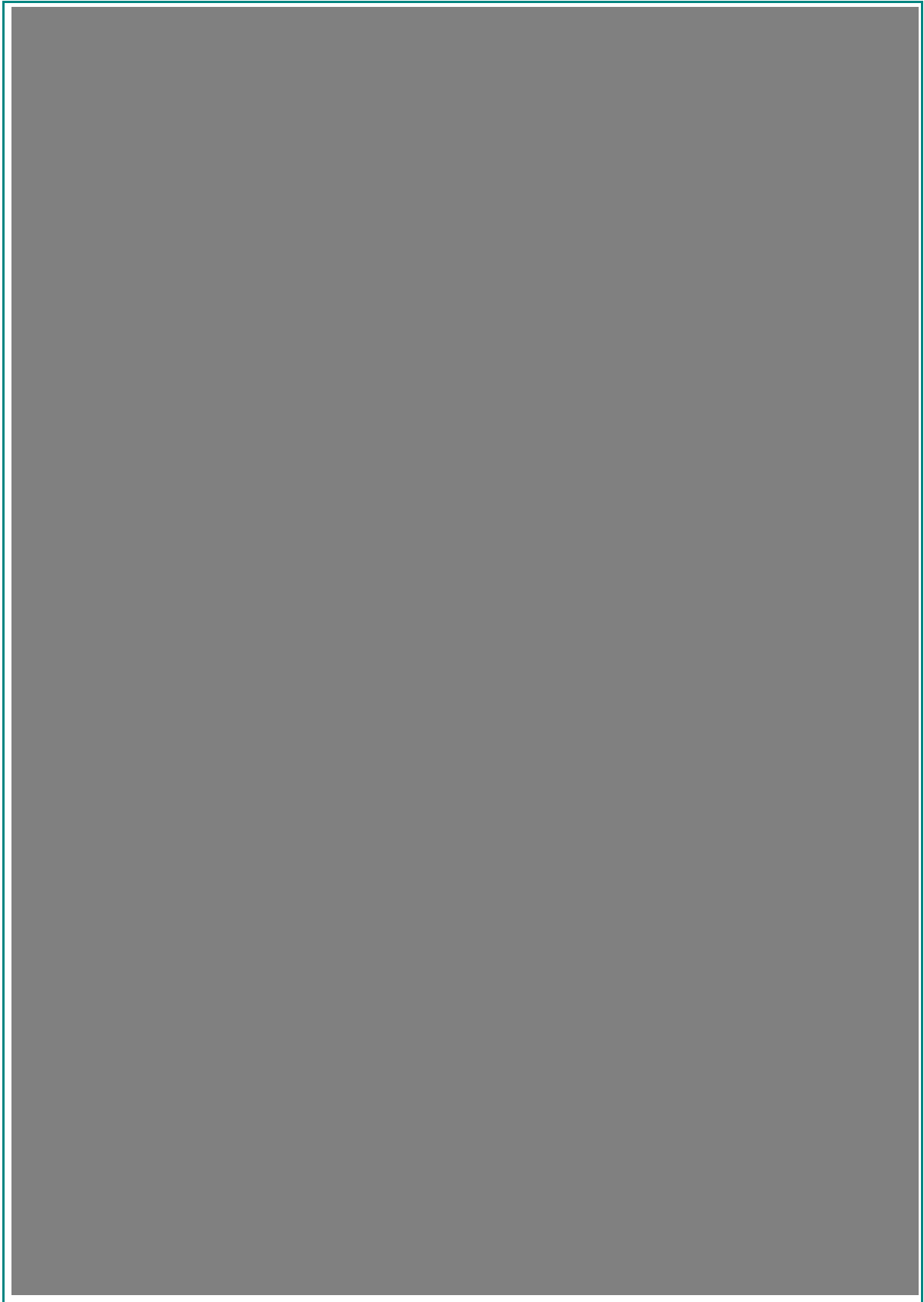
When considering the objective test, the case examiners have considered what the social worker may have to gain from their actions, which occurred over a significant period of time. The evidence suggests that the social worker was frequently willing to cover the on-call forensic rota, often at short notice when other AMHP colleagues declined.

The case examiners note the team manager's explanation that the Trust policy required an AMHP to be on call every night regardless of the fact this may have breached the working time directive. In addition to the forensic on-call duties, the social worker accepted agency on-call work with other LA's, which would inevitably result in an overlap of commitments.

The case examiners note that, despite this, the social worker continued to make themselves available for additional work; they have sought to explain that the nature of the crisis work had become addictive. Further, the social worker's integrity is questioned relating to the alleged falsification of business mileage expenses.

The evidence suggests that the social worker understood the potential consequences of working for more than one organisation whilst performing their substantive role within the FIRST team and forensic on-call duties, and of making fraudulent mileage claims. The evidence suggests the social worker continued despite this and adjudicators are likely to conclude that the social worker's actions were financially motivated. The case examiners are of the view that an ordinary decent person is likely to consider that the social worker was dishonest.

The case examiners are satisfied that there is a realistic prospect of adjudicators finding the regulatory concern proven.



Grounds

With regards to all the regulatory concerns, the case examiners have found a realistic prospect of the facts being found proven. They must next consider whether, if proven, the concerns raised would amount to an allegation of impaired fitness to practise by reasons of the statutory grounds of misconduct.

Misconduct

There are generally considered to be two types of misconduct. These are (either of the following)

- misconduct which takes place in the exercise of professional practice
- misconduct which occurs outside the exercise of professional practice, but calls into question the suitability of the person to work as a social worker

The case examiners are aware that misconduct suggests serious acts or omissions, indicating a significant departure from what would be proper in the circumstances. To understand what would be proper, the case examiners have considered the evidence available and note the following Social Work England professional standards may be relevant in this matter:

As a social worker, I will:

2.1 Be open, honest, reliable and fair

3.8 Clarify where the accountability lies for delegated work and fulfil that responsibility when it lies with me.

As a social worker, I will not:

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

5.3 Falsify records or condone this by others.

The case examiners are aware that falling short of the standards may not always amount to misconduct, but they consider that adjudicators, in this instance, may determine that the threshold for misconduct has been reached. Where the concerns relate to dishonest actions relating to multiple working arrangements for various agencies and falsification of mileage expenses, adjudicators are likely to view this as serious.

The case examiners note the social worker has described personal pressures with which they tried to deal with independently without disclosing to anyone at work. However, being on call for multiple authorities simultaneously had the real potential to place service users at risk of harm. Further, in their submissions, the social worker states that continually working excessive hours over a long period of time was detrimental to their wellbeing. From this, it is reasonable to state that this could have impacted upon the social worker's decision making and further placed the public at risk of harm. The case examiners conclude that the social worker could have mitigated the identified risk by taking necessary steps to cease undertaking additional on-call work when it was first highlighted.

The case examiners have found a realistic prospect of adjudicators concluding that the social worker acted dishonestly; this is always likely to be considered serious. Honesty is key to good social work practice.

Social workers are routinely trusted with access to private spaces (such as people's homes), and highly sensitive and confidential information (such as case notes).

Social workers are relied on to act with honesty and integrity when making important decisions about service users, their relatives and carers.

If the matters were to be found proven by adjudicators, the case examiners conclude the conduct described is likely to suggest a significant departure from the professional standards detailed above.

Accordingly, the case examiners are satisfied there is a realistic prospect of adjudicators finding these matters amount to the statutory ground of misconduct.

Impairment

Personal Element of 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 have considered whether the matters before the regulator are easily remediable, 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

Dishonesty is difficult to remediate but in this case, the case examiners note that in relation to regulatory concern 3, the social worker volunteered the information. The case examiners consider that a suggestion of a deep-seated attitudinal flaw is contradicted by this action of the social worker bringing their conduct to the attention of the Trust, when otherwise it may never have been found. A dishonest person is unlikely to have done this.

The case examiners note that the amount of false claims is estimated to be a small amount (region of £30) which has been repaid in full by the social worker.

The case examiners note that within the disciplinary hearing, the Trust takes the view that the social worker's conduct was completely out of character. The case examiners have also considered the passage of time and note that the Trust has provided evidence in support of the social worker's remorse, remediation and continued efforts to learn from their experience to better inform their professional practice over the past two and half years.

Insight and Remediation

The social worker confirms that they undertook extra agency locum work from 2017 and they have provided an explanation where they slowly became entwined and entrenched in a position where they *'found it difficult to say 'no' to work that was offered, even if it was having a detrimental effect upon my mental health and physical health, which if frequently did.'* (sic)

Throughout the investigation and fitness to practise process, the social worker has expressed remorse, guilt and shame; apologising for their failure to act with integrity and honesty. They have provided reflections about the impact this has had on their credibility as a professional, on their colleagues and also the reputation of the Trust.

In terms of remediation, the social worker submits, *'I believe my remedial actions began before the investigation commenced and continued through the entire process, which encompassed disciplinary interview and ultimately a disciplinary hearing. I asserted during*

all formal discussions that full, open and honest disclosures were fundamental to how I felt I could manage my contribution to the investigation. This conduct was, in my mind, the only path to take. (sic) They have fully accepted that there were occasions where shifts were booked for other authorities at the same time as being on call for their forensic substantive post. The social worker accepts that some of the bookings were made in error in which they only realised at the last minute, but admits that, at other times, they knowingly completed the double booking.

In relation to the fraudulent expense claims, the case examiners note that the volunteered self-disclosure to their manager, in of itself, could be considered a form of remediation. The social worker comments on what they can do differently in the future and reflects on the *'importance of honest documentation'* (sic) and the shortfalls of their diary planning and recordings. They accept not documenting which organisations they covered on which days, leaving them in a position where they realised at the last minute that they were covering for several organisations simultaneously. Further, the social worker acknowledges that they should not have attempted to try to manage the situation by themselves, and should have discussed it with their manager. They describe the benefits of daily reflections of the whole experience, and use *'it as a motivator to return to consistently honourable practice and behaviour.'* (sic).

Although, the social worker does not appear to have undertaken formal training to evidence remediation, the case examiners are mindful that training to address attitudinal concerns is uncommon, as it is very difficult to devise training to address such matters.

It is apparent to the case examiners that the Trust, their employer, considers that the social worker continues to remediate with ongoing reflections and learning discussed within line management supervision, which they apply into their daily practice. Within an email, dated 30 January 2023, the case examiners acknowledge the team manager comments that, *'I support [social worker] in his wish to put the past behind him and in his stated aim of continuing to develop his role as a forensic social worker,'* and *'I would support a decision by Social Work England to take no further action in this case so [social worker] can concentrate on his future goals.'*

In relation to the risk of harm to service users, the social worker recognises the risk they placed to service users by offering to cover for different organisations simultaneously and they comment that *'I was fortunate that a serious incident never occurred or that no individual was harmed as a consequence of my decisions and actions.'* (sic)

The social worker confirms that they returned to work in June 2021 with a 2-year final written warning sanction and asserts to have resumed the role of social worker with passion and commitment ensuring that their *'attendance and attitude is focused and impeccable.'* (sic)

They have also provided a testimony from a mental health review tribunal, which the case examiners have had sight of, which speaks to the positive way in which the social worker advocated for the best interests of one of the patients, both in terms of oral and written evidence.

Risk of repetition

The case examiners note that the conduct occurred between August 2019 and December 2020, and similar conduct does not appear to have been repeated since. The social worker accepted a final written warning and had their AMHP status removed, following the outcome of the internal investigation in January 2021. The Trust's decision not to dismiss was largely due to the social worker's full acceptance and previous good standing.

An email, dated 30 January 2023, confirms that the case was closed by the Trust and LA's and that the social worker is not currently subject to any sanctions and that they have resumed working in the forensic social work role, fully demonstrating a good working knowledge, skills and ability to effectively perform the role. There have been no service user complaints, and the social worker continues to attend management sessions, reflecting on their deep regret about past events. The Trust positively comment on the social worker's attitude and conduct and their confidence in that similar concerns will not arise in the future. They have requested that the fitness to practise process is closed with no further action, as they recognise that the social worker is working hard to move on and establish themselves as a valued member of the multi-disciplinary team.

However, the case examiners note that the LA stance is more critical in that the head of service who terminated the AMHP authorisation in December 2020, has since refused to reapprove the social worker as an AMHP due to their fraudulent activity.

Whilst the case examiners have noted the social worker's submissions, that they were well intentioned in providing services to authorities that needed them, the case examiners are mindful that it is unlikely to provide mitigation to the dishonest approach. Further, that the fraudulent claiming of mileage is an action that is far departed from what would have been expected of the social worker.

Dishonesty can inherently bring with it a risk of repetition as it can point to character or attitudinal flaws that suggest repetition is likely. However, as previously mentioned, the case examiners have taken into consideration the fact that the social worker did not have to disclose their actions to their manager but voluntarily chose to do so. This appears inconsistent with what would be expected of somebody who has deep seated character flaws. In addition, the case examiners note that the concerns occurred some 2-3 years ago and have not been repeated. This further validates that the social worker is unlikely to

have an attitudinal issue, specifically dishonesty, as it is likely that, if this were the case, further issues would have materialised.

The case examiners have also taken into account that there is no evidence before them that suggests the social worker has acted in a similar manner prior to the matters that gave rise to the regulatory concerns occurring.

The case examiners consider that the social worker has demonstrated sufficient remediation, as far as it possible given the attitudinal nature of the concerns, and that the best indicator of remediation being complete is the passage of time without further incident.

Whilst the case examiners are mindful that allegations of dishonesty often result in decision makers concluding that a risk of repetition exists, due to information outlined above, they are satisfied that the particular circumstances of this case are such that an alternate conclusion can be reached.

Taking into account all the information available the information reviewed leads them to conclude that there is a low risk of repetition.

Public Element of Impairment

When considering the wider public interest, the case examiners are required to determine:

- Does the conduct put the public at risk?
- Is the conduct a significant departure from the Standards?
- Does the conduct have the potential to undermine the trust and confidence in the profession?

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.

Although the case examiners have concluded that the risk of repetition in this case is low, notwithstanding this, the allegations are serious and the wider public are likely to consider the conduct, if proven, reflects negatively on the profession. Social workers are expected to behave in a manner that adheres to professional standards of conduct, which includes being open, honest and possessing prosocial values and integrity. The case examiners have concluded that the alleged conduct has the potential to undermine trust and confidence in the social work profession. Dishonesty is likely to be viewed particularly seriously given the access social workers have to people's homes and lives; it is essential to the effective delivery of social work that the public can trust social workers implicitly.

In a case of this nature, adjudicators may determine that the public would expect a finding of impairment. Furthermore, confidence in the profession and the regulator may be undermined if a finding of impairment was not made.

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	☒
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

The case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired, rather they have focussed on marking the context and remediation. 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. In reaching this conclusion, they noted the following:

- There is no conflict in evidence in this case and the social worker accepts the facts cited in the regulatory concerns.
- 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 recognise that not all professionals will have an innate 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 accepted disposal process will provide to 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.

Interim order		
An interim order may be necessary for protection of members of the public	Yes	☐
	No	☒
An interim order may be necessary in the best interests of the social worker	Yes	☐
	No	☒

Accepted disposal

Case outcome		
Proposed outcome	No further action	☐
	Advice	☐
	Warning order	☒
	Conditions of practice order	☐
	Suspension order	☐
Proposed duration	5-years	

Reasoning

Having found that a realistic prospect the social worker's fitness to practise is currently impaired, the case examiners then considered what, if any, sanction they should propose in this case. The case examiners have taken into account the Sanctions Guidance published by Social Work England. They are reminded that a sanction is not intended to be punitive but may have a punitive effect and have borne in mind the principle of proportionality and fairness in determining the appropriate sanction.

The case examiners are also mindful that the purpose of any sanction is to protect the public which includes maintaining public confidence in the profession and Social Work England as its regulator, and upholding proper standards of conduct and behaviour.

The case examiners have taken into account the principle of proportionality by weighing the social worker's interests with the public interest when considering each available sanction in ascending order of severity.

In considering a sanction, the case examiners have considered mitigating and aggravating factors in this case:

Mitigating

- The social worker has fully accepted the facts and that their actions at regulatory concerns 1 and 3 were dishonest.
- The social worker continues to be employed by the Trust.

- The employer provides positive comments about the social worker's professional performance and their commitment to continued learning and reflection about past events.
- The small overpayment of mileage expenses has been repaid in full.
- The social worker has demonstrated good insight and remediation, and engaged openly and honestly throughout the investigation and fitness to practise process.
- A member of the public is likely to consider the social worker's conduct as unacceptable, but may be reassured by the actions taken by the social worker to remediate

Aggravating

- The risk of potential harm to service users, colleagues and the reputation of the Trust was prolonged by the social worker's conduct between 2019 and 2020.
- Dishonesty is viewed particularly seriously.

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

No Action or Advice - The case examiners conclude that the social worker's action were serious. In the absence of exceptional circumstances, it would be inappropriate to take no action or give advice. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Warning - In relation to a warning, the case examiners had regard to paragraph 108 of the guidance, which reads:

A warning order is likely to be appropriate where (all of the following):

- *The fitness to practise issues is isolated or limited*
- *There is a low risk of repetition*
- *The social worker has demonstrated insight*

The case examiners note the unique set of circumstances in which the conduct occurred during the covid-19 pandemic.

There is no previous adverse history and no repetition of behaviours, which suggests whilst the matter is not isolated, it is limited to the parameters of this fitness to practise case.

The case examiners acknowledge that allegations of dishonesty are serious, however, earlier in this determination they have explained why they are satisfied that the risk of repetition is low. Further, in order to draw this conclusion the case examiners took into account that the social worker has demonstrated good insight. Accordingly, in line with the guidance outlined above, the case examiners are satisfied that the sanction of a warning is appropriate in this case.

The case examiners then considered what length of warning would be appropriate in the circumstances. The case examiners concluded that a warning of 1-year would not sufficiently address the seriousness of the case, particularly given the dishonesty element. It is only due to the particular information that has been detailed earlier in this determination, that has led to the case examiners concluding that there is a low risk of repetition and satisfies the case examiners that placing a restriction on the social worker's practice is not required. However, the case examiners stress that they have carefully considered a restrictive sanction and this case has only fallen marginally short. Accordingly, a 3-year warning would not sufficiently address the public interest in this case and the case examiners have determined that issuing a warning of 5-year duration is required to promote and protect public confidence in the profession.

Further, a 5-year warning will provide sufficient time for the social worker to reassure the regulator that there is no risk of repetition, given the nature of the dishonesty allegations.

Conditions of Practice Order - The case examiners have tested the appropriateness of a 5-year warning by considering the next sanction up in terms of severity.

In respect of conditions of practise this is normally a sanction that is used to address matters of health or a lack of competency or capability. There is no suggestion of any competence concerns in this case and the allegations are likely to amount to misconduct that is not rooted in a health concern. As such, conditions of practise would not be appropriate in this case. The case examiners are mindful that in instances like this they should also turn their minds to a suspension order. However, having done so the case examiners conclude that this would be a punitive outcome. The public may consider that the removal, be it temporary, of an otherwise competent social worker who by the account of their employer is performing well, would be disproportionate given the factors that led the case examiners to conclude that the risk of repetition is low.

To conclude, the case examiners have decided to propose to the social worker a 5-year warning. 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 21 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 warn the social worker as follows:

Your actions, specifically dishonestly working for multiple organisations at the same time placed service users at risk of harm. This a serious matter.

In addition, you accept that you have acted dishonestly and such conduct would significantly undermine public confidence in you, and the profession. Such conduct must not be repeated.

If further matters are brought to the attention of the regulator, and found proven, it is highly likely that you will be subjected to a more severe sanction.

Response from the social worker

The social worker provided a response on 20 September 2023, and confirms that they have read the case examiners' decision and the accepted disposal guide. They confirm that they understand the terms of the proposed disposal of the case and accepts them in full.

Case examiners' response and final decision

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

Having been advised of the social worker's response, the case examiners have again turned their minds as to whether a warning remains the most appropriate means of disposal for this case. They have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e. protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards.

Having done so, they remain of the view that an accepted disposal by way of a warning is a fair and proportionate disposal and is the minimum necessary to protect the public and the wider public interest.