

Adjudicator consensual disposal guidance – simplified version

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About this guidance

This is a simplified version of the full guidance for Adjudicator Consensual Disposal. Please read both documents for a complete explanation of the process.

This guidance is for everyone.

What is Adjudicator Consensual Disposal?

Adjudicator consensual disposal is a process where Social Work England and the social worker (or their representative) agree what the outcome of the case should be. This joint proposal will then be put to the adjudicators. It avoids the need for a full final hearing.

This process does not affect the adjudicators' powers or the range of sanctions available to them (removal, suspension, conditions of practice, warning, advice, no further action).

Any case can be handled through an adjudicator's consensual disposal process. It is not restricted to certain types of regulatory concerns. However, it is not a negotiation. If the social worker does not agree to the outcome proposed by Social Work England, the process ends.

Adjudicator consensual disposal runs alongside the usual pre-hearing case-management process. A social worker must still comply with any case management directions as part of the final hearing scheduling process while adjudicator consensual disposal is under consideration.

Eligibility criteria

Cases proceed by consensual disposal only if the following conditions are met:

- The case examiners have referred the case for a final hearing.
- Social Work England has gathered all relevant evidence for a final hearing.
- A draft statement of case, witness statements and evidence has been disclosed to the social worker.
- The social worker admits both the key facts that raise concerns about their fitness to practise and that their fitness to practise is currently impaired.

A case can still be suitable for adjudicator consensual disposal even if the social worker doesn't admit every part of the allegation, as long as they admit the key facts and accept that their fitness to practise is impaired. It may be enough for the social worker to admit the main facts behind the allegation, rather than every single detail.

Benefits of the process

Adjudicator consensual disposal avoids the stress and complexity of a full final hearing and helps cases conclude more quickly. It also removes the need for witnesses to give live evidence.

Procedure

Disclosure and response: The external legal provider sends the statement of case, supporting evidence, and a response form inviting the social worker to say if they accept or disagree with each part of the allegation(s) and asks if the social worker is interested in consensual disposal.

Expression of interest: The social worker completes and returns the response form to indicate they are interested in consensual disposal.

Assessment by Social Work England: Social Work England will decide whether the case meets the criteria for adjudicator consensual disposal. If it does, they will set out what facts the social worker needs to admit and what sanction they are proposing. If the requirements are not met, the social worker will be told why the case cannot proceed to the adjudicators for consensual disposal.

Consensual disposal agreement: If the social worker admits the key facts and agrees with the proposed sanction, a draft agreement is prepared detailing agreed facts, grounds of impairment and proposed sanction.

Timeframes and support: Social workers typically have 14 to 28 days to respond. Extensions may be granted for illness or reasonable adjustments.

Signing and return: It is recommended that the social worker seeks advice before signing. If rejected, the case will proceed to a final hearing.

Consensual disposal hearing

Panel composition: Social Work England's hearings team schedules the hearing before a panel of at least 2 adjudicators, including a lay chair and a social work adjudicator. An independent legal adviser attends the hearing to provide advice to adjudicators on the legal framework governing proceedings.

Attendance: Ideally, the social worker attends the hearing or confirms they are happy for it to proceed in their absence. If absent without confirmation, the panel may decide to proceed, if notice was issued at least 28 days in advance.

Documents provided to the adjudicators: Includes the statement of case, signed agreement, witness statements, social worker's response, relevant documents.

Public or private hearing: The hearing is usually held in public unless health reasons or other reasons justifies the hearing taking place in private.

No live witnesses: As the facts are agreed, live evidence from witnesses is not usually necessary. Adjudicators accept the agreed facts as proven.

Oral submissions: Social Work England's case presenter attends the hearing to answer any questions adjudicators may have. The social worker is encouraged to attend the hearing for the same reason. In most cases, adjudicators do not need oral submissions because they have access to all documents relevant to consensual disposal.

The adjudicator's decision

Adjudicators first confirm the agreed facts from the consensual disposal agreement. They must have enough evidence to decide whether the social worker's fitness to practise is currently impaired and what sanction is appropriate. They review documents and the agreement, then decide:

- Is the social worker's fitness to practise impaired?
- If yes, what sanction (and, if applicable, interim order) is needed?

They can reject the agreement if they believe a different outcome is necessary to protect the public.

The adjudicators must be satisfied that the agreement is sufficient to protect the public by:

- protecting public health, safety, and wellbeing
- maintaining public confidence in social workers and;
- upholding professional standards.

If adjudicators agree the social worker is impaired and that the proposed sanction is the minimum needed for public protection, their decision must set out their reasons.

Social Work England publishes the decision according to its publication policy, with publication length based on the sanction.

If the adjudicators do not accept the agreement

Before rejecting, they will invite submissions from both parties on any concerns about impairment or sanction. They should request any essential missing information. If information necessary for a decision to be made is unavailable, they must reject the agreement.

Adjudicators may propose a different outcome. However both parties must agree for it to proceed. If not agreed by the parties, the original agreement is rejected.

If the adjudicators reject the agreement

The adjudicators will reject the agreement if the agreement does not, in their view, sufficiently protect the public, or where the parties do not agree to an alternative outcome the adjudicators have proposed.

After rejection:

- The hearing is adjourned and will be re-listed for a final hearing. The admissions made by the social worker as part of the rejected consensual disposal agreement will be given to the adjudicators at the re-listed final hearing.
- The adjudicators' reasons for rejecting the agreement will be provided in their decision, which may also include recommendations on further information they consider the parties may wish to obtain to assist a future hearing panel.
- The adjudicators at the re-listed final hearing will not generally be provided with the previous adjudicators' reasons for refusing the proposed consensual disposal agreement.
- Social Work England will not publish the rejection decision but when the case proceeds to a final hearing, that final hearing decision and outcome will be published in accordance with our policy.