

Social Work England

Summary of our review of Social Work England's process for 'accepted outcomes' in fitness to practise cases

Why did we carry out this review?

Social Work England has adopted a new process within its fitness to practise procedures which we refer to as 'accepted outcomes'. Under this process, Case Examiners can decide that the facts of a case are likely to be found proved by a panel of adjudicators and that those adjudicators are also likely to find that the facts amount to misconduct and that the social worker's fitness to practise is impaired. The case examiners can then invite the social worker to accept a sanction which addresses the impairment without the matter being heard in public by a panel.

This is a new process. The Government proposes to enable the other Health and Social Care regulators to have similar powers. We carried out a review of the process because (a) it was new and (b) to identify any learning for the regulators.

Our review: key statistics

We looked at 41 cases (the entire group disposed of under this process by SWE in 2020):

- ▶ 24 misconduct cases
- ▶ 12 involved convictions
- ▶ 3 were health cases
- ▶ 2 mixed health/misconduct

Table summarising cases reviewed

Type of Case		Warning	Conditions of Practice	Suspension	VRA	Cases where we identified learning	Cases where we identified serious concerns	Cases where we identified good practice
Misconduct	24	11	7	1	5	18	8	3
Conviction	12	9	3	0	0	9	0	3
Health	3	0	3	0	0	1	0	1
Health/misconduct	2	1	0	1	0	0	0	2
Total	41	21	13	2	5	28	8	9

Our findings

Our key findings are:

- 1 The process worked well for simple cases where the facts were clear and uncontested. It saved time and reached outcomes which were clearly appropriate. It was particularly appropriate for cases where the registrant's health was a concern. The good decisions were robust, well-argued and clearly protected the public.

 - 2 We found eight cases where we considered that the decision might have been insufficient to protect the public. Four of those led to voluntary removal of the registrant when we considered that this was not necessarily appropriate. SWE has revised its arrangements for voluntary removal.

 - 3 This number of cases represents a significantly higher proportion than for panel hearings for other regulators. However, we were looking at a small number of cases in a new process. While we recognise that Case Examiners have a different process from panels, the fact remains that these are final decisions in respect of serious matters and that there is no means of review. This suggests that those decisions should be at least as robust as those of panels.

 - 4 Some cases are not suitable for decisions by Case Examiners. These are cases where there are disputes of fact or doubts about the level of the social worker's insight. Case Examiners do not have the power or resources to resolve such disputes and cannot see the social worker. Such cases should be heard by adjudicators.

 - 5 We saw some cases where we were not satisfied that the social worker did accept serious allegations which the Case Examiners had found likely to be proved or that the reflections shown by the social worker really showed a level of insight which justified the sanction. These cases involved serious concerns about confidentiality and abuse of position and we doubted that the decisions taken there were sufficient to protect the public.

 - 6 We considered that, in some cases, social workers might have been better advised to seek a determination by the adjudicators either because we were not satisfied that the Case Examiners' assessment that the facts were likely to be proved was correct, or because the social worker might have been better able to demonstrate insight by giving live evidence to the panel. This view was supported by one case where a social worker who had refused an agreed disposal achieved a finding of 'not impaired' and was able to practise without restriction or any current finding on their record. We were concerned about the impact of this on the perceptions of fairness.
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- 7 Generally, the quality of decisions was not clearly better or worse than those of the panels of other regulators.
- 8 There was an uncertainty around the concept of the public interest in many decisions. This is an important aspect of the concept of 'impairment', of deciding whether a hearing should be held in public and of deciding the appropriate sanction. We consider that more work needs to be done generally to assist decision-makers to assess this concept.
- 9 SWE has taken a very constructive approach to our views. We saw improvements in the quality of decisions over the period that we looked at, and we are confident that it will continue to seek to improve its approach.

In summary

There are a number of positive things about the new process, particularly, its speed and ability to deal with relatively simple cases fairly and appropriately. We were also impressed by the serious approach SWE has taken to addressing our concerns.

Our top three takeaways from the report – where we think more consideration needs to be given – are:

ONE The process worked well for **simple cases where the facts were clear and uncontested**. It saved time and reached outcomes which were clearly appropriate. It was particularly appropriate for cases where the registrant's health was a concern. The good decisions were robust, well-argued and clearly protected the public.

TWO There are some cases which are unsuitable for this process and we were concerned that the Case Examiners did not always identify that this was the case and reached decisions that **might not have been sufficient to protect the public**. This is concerning because **these are final decisions in respect of serious matters and there is no means of review**.

THREE There is a danger that registrants who are not represented may agree to more serious outcomes than would have been the case if they had had the matter heard by panels. There is a danger that this may lead to **perceptions that the system is unfair**.

You can read the full report [here](#).