



PSA Submission: Social Worker Registration Legislation Bill

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Introduction

Who we are

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 62,000 members. We are a democratic organisation representing members in the public service, the wider state sector (the district health boards, crown research institutes and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.

The PSA has been advocating for strong, innovative and effective public and community services since our establishment in 1913. People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they are delivered.

The PSA represents approximately 3500 social worker members who work in the government, health and community sectors. The **Social Worker Action Network (SWAN)** is a network within the PSA that aims to unify, inspire, inform, and advocate for social workers. SWAN provides a forum for social work members to come together and organise around the issues facing our community, and ensure that the unique needs of social workers are identified and responded to. SWAN seeks to advocate for the social work community and develop a sense of cohesion, unity and strength amongst social workers. This submission has been informed by feedback from an email to all Social Worker Action Network members and identifiable social work members.

The PSA is an affiliate of the New Zealand Council of Trade Unions Te Kauae Kaimahi.

Comment

Overall

The intention of the bill is to increase the professionalism of the social work profession by

- increasing coverage of the regulatory regime;
- ensuring social workers are competent and fit to practise;
- and increasing the effectiveness and transparency of the way the Act works.

The Social Workers Registration Act 2003 established the Social Worker Registration Board with the goal to start creating a regulatory environment. It was foreseen that at some point New Zealand would move towards mandatory registration of social workers. The current bill makes it mandatory to be registered as a social worker in New Zealand.

While the PSA supports mandatory registration of social workers to ensure the level of professionalism, qualification, skill, ethics and accountability the PSA is particularly concerned about

- lack of defined scope of practice
- decreasing international compatibility
- lack of clarity around definition of misconduct/serious misconduct
- Implementation and resourcing

Our written submission comments on the areas of the Bill which we think require further clarification or strengthening.

We urge the Government to clarify and strengthen these areas of the bill to ensure the delivery of the best possible service to the public.

The PSA requests an opportunity to make an oral submission to the select committee in support of this written submission.

Additionally, if there is any further redrafting on this bill the PSA would like an opportunity to provide feedback on behalf of our members.

Lack of defined scope of practice

The PSA's core concern with this bill is section 6AAB where social work is only defined by reference to the title social worker. The effectiveness of the title protection provided by this bill will be undermined by the absence of a scope of practice describing social work and who should be covered. It is the PSA's view that the legislation regulating social work should be consistent with the Health Practitioners' Competence Assurance Act (HPCA) whose regulation process requires defining what the practice of that profession is. By protecting the title of social work only employers are effectively given free rein to decide whether or not they are employing someone under the title social worker. This need not be based on what their staff member is actually doing, but what the employer chooses to call the job.

It is the view of the PSA that the lack of a scope of practice will contradict and actively work against the stated intentions of the bill in the following ways:

Intention 1): Increasing coverage of the regulatory regime

Any increase to the coverage of the regulatory regime by making registration compulsory is likely to be eroded by the ability for employers to change job titles to remove reference to the term social work. Perceived or real needs of services providers to minimise costs through paying people lesser wages, avoiding professional development costs or the costs of registration itself could mean employers who currently employ social workers may cease to do so, or cease to call them social workers.¹ This is likely to be particularly true in the NGO sector where long term government underfunding has left many social services in a precarious state and the challenges of paying for registration, supervision and professional development are daunting. Over a period of time this could lead to a significant downturn in social work jobs and in turn, registered social workers.

Furthermore, social work is one of the lesser understood professions meaning that even where there are good intentions and adequate resources, people may employ people with non-social work titles who are in reality undertaking social work practice as they have no clear scope of practice to inform their decision. This will impact the consistency and quality of service people are receiving.

Intention 2): Ensuring social workers are competent and fit to practise

The bill in its current form undermines this stated aim in two key ways. The first is by allowing social workers to be employed, doing social work, in non-social work named jobs. This means they are less likely to have access to professional supervision, professional development and maintain registration as they will have to bear the costs individually, which is challenging for most people. This is likely to lead to poor practice as having access to all

¹ We have had employers state to us that this is in fact their intention, citing cost fears.

these things are widely accepted to be cornerstones of quality practice and ongoing learning.

Equally employers are free to employ non-qualified people into what could be in essence social work jobs, but are not named as such. With the discretion given to them in this bill to decide what is and is not social work people maybe receiving a service that should be provided by a skilled, qualified social worker from an unqualified person. As there is already a proliferation of titles that social workers go by- for example case worker, whānau worker, community worker - the public may be unaware that they are not getting a qualified, skilled social worker to support them. This has the potential to put the public at risk, which is contrary to the stated purpose of registration to provide certainty and safety for the public. This also carries a risk for the unqualified worker as they may find themselves dealing with issues well outside their skill set with profound consequences such as suicide or harm of others resulting. Likewise, the stress placed on the insufficiently skilled worker may lead to them suffering undue harm such as burnout, mental health issues or post-traumatic stress disorder.

Intention 3): Increasing the effectiveness and transparency of the way the Act works

Due to the unpredictability and potentially arbitrary assignment of roles to fall into the social work practice this bill does not contribute to increased effectiveness and transparency of the Act. Instead it obfuscates and confuses the issue of what social work is and who should ultimately be considered a social worker.

The PSA is also concerned that by not referencing a clear scope of practice this sends a clear message that social work is not a valuable, distinct and critical role, undermining decades of work by leaders in this field.

Recommendation

Clause 6AAB needs to be removed and redrafted. Reference to a scope of practice, defined by Aotearoa/New Zealand social workers, informed by the International Federation of Social Workers agreed definition of social work be a part of this bill if it is to achieve any of its stated aims.

Decreasing international compatibility

The bill in its current state is out of step with the regulation of social work (and indeed other professional groups) internationally. In Canada for example each Canadian jurisdiction has enacted legislation that outlines practice for Registered Social Workers (RSWs) whereas in Scotland social workers must register under each of the functions they carry out. In both of these instances the practice of social work is clear and well defined for the public and the practitioner.

As the practice of social work is not defined in this bill it would become difficult for social workers registered in New Zealand to be easily identified as comparable to social workers from overseas whose scope of practice is clearly defined.

This could impact upon New Zealanders being able to travel and work overseas with their social work degree and is likely to discourage international social workers from coming to Aotearoa/New Zealand. As there will be no necessity to call a social work job “social work” this could drive (already low) wages down significantly for social workers, reducing the amount of locally qualified social workers and equally not being able to attract international talent here.

Recommendation

Defining social work practice clearly and ensuring international transportability of social work registration must be a core platform of a successful registration bill.

Lack of clarity around professional misconduct

The bill contains a new requirement (clause 28-new section 47A) for employers to report serious misconduct to the board. The PSA has real concerns that this clause is also out of step with the HPCA Act which reads:

“Whenever an employee employed as a health practitioner resigns or is dismissed from his or her employment for reasons relating to competence, the person who employed the employee immediately before that resignation or dismissal must promptly give the Registrar of the responsible authority written notice of the reasons for that resignation or dismissal.”

The PSA would not expect any unproven allegation to be reported to the board. If this goes ahead it could mean the employee effectively faces two parallel investigations, one from the board and one from the employer. The board are not experts in employment law and as such may end up making rulings and judgments that are well outside their expertise and even legally challengeable. There is a real risk this could bog the board down and strain its relationship with the social work community.

Employers, particularly those with fewer resources could also abandon their basic responsibility to their employee and simply wait for the boards outcome, holding no due process of their own.

The investigation of any such allegation is the responsibility of the employer and a fundamental part of the employer/employee relationship. Many social workers will have clear processes for dealing with investigations spelt out in their collective agreement as well as the protections provided to all employees by the Employment Relations Act. The PSA would expect employers to inform the board about any proven serious misconduct after a properly conducted employer investigation.

The PSA is also concerned about the breath of using the general term “serious misconduct” in the clause. It is our members view that the board is there to set and maintain social work standards and practice, in other words, professional conduct. Other workplace issues that might also warrant an employment investigation- (repeated lateness or trouble with a colleague for example) seem to be issues best dealt with entirely at an employer level. Without being clear in the clause that the notification is about “serious **professional** misconduct” there is a strong likelihood that an employer will perceive things along these lines as serious misconduct and they will end up before the board. Professional misconduct is misconduct related to a social worker’s practice, ethics and code of conduct whereas serious misconduct relates to breaches of the employment agreement.

Recommendation

- The words serious misconduct is replaced with “serious professional misconduct”
- Employers are only required to report proven serious professional misconduct or an employee who leaves while under investigation for serious professional misconduct.
- Consideration is given to aligning the clause to the HCPA Act

Implementation and resourcing

The PSA supports the removal of section 13 after a 5-year phase out period and the 2- year implementation phase for the Act.

To ensure that this implementation phase is effective there needs to be significant planning and resourcing to accompany this. It is essential for our members that their employers, particularly those with precarious funding circumstances have funding contracts rewritten to take into account the cost of registration and of the increased professional development expectations. It could place a significant extra burden on organisations and could incentivise employing lower skilled workers or force the closure of some social services. If we want better outcomes for our communities, delivered by skilled social workers this must be accompanied by investment.

Additionally, the PSA view is that consideration should be given to reinstating the NGO study awards and other supports for social workers in other fields to ensure that any remaining workforce requiring training has as few barriers as possible to this.

The implementation of mandatory registration with a defined scope of practice for social work would also be an ideal time to raise the profile of social workers and their role they play in social services throughout Aotearoa/New Zealand. As we are in desperate need of more high quality social workers throughout Aotearoa/New Zealand, in every sector, this could be a great opportunity to run an education campaign alongside implementation letting employers and the public know what social workers do and what they can expect from a social work service. Enhanced understanding of the work, as we have shown with the home and disability support sector, can lead to an increased interest in the work and a better comprehension about how to utilise the services provided effectively.

Recommendation

- Planning is undertaken to resource government funded services for increased costs associated with mandatory registration
- Consideration is given to study supports and the removal of barriers to social work study
- Planning is undertaken to utilise implementation phase to raise enhance understanding of social work