



Social Service
Providers
Aotearoa

Social Service Providers Aotearoa

Submission to Social Services and Community
Committee

Social Workers Registration Legislation Bill

31 January 2018

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Email: select.committees@parliament.govt.nz

SSPA wishes to speak to this submission

This submission is from:

Brenda Pilott, National Manager

Social Service Providers Aotearoa Inc. (SSPA)

Contact details:

PO Box 25515, Featherston St, Wellington

Tel: 027 430 6016

Email: manager@sspa.org.nz

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About SSPA

Social Service Providers Aotearoa (SSPA) is the New Zealand umbrella organisation for government-funded community-based providers working with children, young people, families, and communities.

SSPA exists to support member service providers to make a positive and significant difference in their communities through their work with children, young people and families.

SSPA also draws on its grass-roots membership to engage with government in the legislative and policy development process, including submissions, information and advice, and facilitating consultation.

With a membership of some 200 social service providers nationwide, SSPA represents an approximate collective capacity of 6500 staff and 5000 volunteers providing essential services to children, families and communities throughout New Zealand.

SSPA members are, collectively, a significant employer of social workers.

SSPA previous submissions on mandatory registration of social workers

SSPA has consistently advocated for a professional, skilled, highly competent social services workforce, able to respond to children, young people, and families in need with professional support that reflects best practice.

In a submission to the Social Workers Registration Board (SWRB) in July 2011 on the subject of mandatory registration, SSPA stated the importance of protecting the public and enhancing professionalism within social work, but noted a number of considerations, including:

- Limitations in the extent to which registration could engender good social work practice
- The contribution of experienced but unqualified social workers
- The financial impact for NGOs
- The challenges of moving towards a fully qualified social worker workforce.

In our submission in July 2016 to the Social Services Committee Inquiry into the Operation of the Social Workers Registration Act 2003, SSPA outlined the basis for its in-principle support for mandatory registration, which required a number of issues to be addressed in order to make registration successful and avoid unwanted consequences:

- Acknowledgement that while registration is a contributor to public confidence in social work practice, it is not sufficient in itself to provide an assurance of the quality and effectiveness of social work practice – support is needed for other systems that support good practice including resourcing
- Section 13 registration must remain an option – this is critical in particular for the NGO social worker workforce and is one of the ways we can ensure the required cultural competence is available
- Further support and qualification pathways are required to enable unqualified social workers to obtain a qualification
- The cost of registration and maintaining registration is too high and is onerous for social workers and their employers
- The processes for registration and assessment of competency require simplification and streamlining.

In this latest submission SSPA supports mandatory registration and is making recommendations and suggestions designed to improve the proposed system and maximise the benefits.

Focus of this submission

During our consultation process, we conducted a survey that asked members to highlight aspects of the Bill they support, and any areas they believe require greater consideration. Although this submission does not comment on all aspects of the Bill, it seeks to reflect the key areas of concern our members have. Please note, the views in this submission do not necessarily reflect the views of all SSPA members.

Note for the select committee

SSPA wishes to speak to this submission.

If substantial changes are made to the Bill by the select committee, SSPA (and no doubt other stakeholders) would want an opportunity to review and provide advice on a revised Bill.

Executive Summary

SSPA supports the move to mandatory registration of social workers as a means of promoting public accountability and public safety, and reinforcing the value of professional social work. It is our view that the Bill should not be passed in its current form as it will require significant redrafting to achieve these policy objectives.

While we support the proposed two year period before an amended Act comes into force, there are significant implementation and logistical problems that need to be resolved before the Bill is passed, even if redrafted.

A key matter to be addressed in redrafting is the need for a scope of practice to be developed to give meaning to the protected title of social worker. This should include job title, area of practice, body of knowledge (including the use of kaupapa Māori and tikanga Māori frameworks), tasks commonly performed, experience, and qualifications required. The scope of practice should not be included in the legislation but the Social Workers Registration Board should be designated as the appropriate authority to develop a scope of practice.

We do not support the complete withdrawal of the experience pathway to registration which is currently available under section 13 of the Act. To minimise the risk of workforce disruption, we recommend retention of limited access to registration on the basis of experience (without qualifications) beyond the proposed 5-year period. Conditions may be applied to such registered social workers.

Numerous aspects of the proposed regulation system and processes impose new and additional costs on the NGO sector, which employs approximately half the social work workforce and has been subject to persistent and long-term underfunding. Major additional compliance costs include:

- Transition costs, including capability development
- Initial registration costs
- Continuing professional development and annual practising certificate costs
- Rework of policies, procedures and cementation, including employment agreements, recruitment materials, and policy documentation required for accreditation
- Training and support for managers and staff to understand the new registration system and its impact on their operations and employment

We expect to see an increase in social worker pay expectations as a result of mandatory registration and also note the potential impact of pay equity. SSPA wishes to see social workers appropriately remunerated but NGO providers will need a funding boost to enable them to remain competitive when recruiting and retaining staff.

In order to make an efficient transition to a mandatory registration system, a careful and properly-resourced implementation programme will be needed. If this is not established, the intent of the legislation may be undermined and there may be serious workforce and service disruption, especially in the NGO sector.

Additional funding for the NGO sector will be required.

Summary of Recommendations

Mandatory Registration	
1	SSPA supports mandatory registration of social workers as a means of promoting public accountability and public safety, and recognising the value of professional social work.
2	The additional costs to NGOs of mandatory registration should be reflected in contracts for services. In particular, transition costs, including capability development, and compliance costs such as ongoing CPD costs should be funded for NGOs.
3	The lead implementation agency should engage in direct consultation with NGO providers and social workers to establish appropriate implementation processes.
Two-year period before the amended Act comes into force	
4	Retain the proposed two-year period before the Act comes into force to enable a managed transition.
5	Consider a mechanism to exempt people who are in the process of studying for a social work degree (which can take up to 8 years part time). Exemptions should only be given to students beginning a course that starts before the 2 year enactment date.
Title 'social worker'	
6	SSPA supports clause 8 and the protection of the social worker title.
7	Establish a funded public education programme to provide clarification and consistency for the public about the title of social worker.
8	Clarify whether any consequent changes are required to the Oranga Tamariki Act 1989 regarding the definition of 'social worker'
Defining scope of practice	
9	Withdraw new section 6AAB and redraft to designate the Social Workers Registration Board as the regulatory authority that, with consultation with stakeholders, will specify scope(s) of practice for social workers as a core component of the regulatory system for social workers.
10	Scopes of practice should include job title, area of practice, body of knowledge (including the use of kaupapa Māori and tikanga Māori frameworks), tasks commonly performed, experience, and qualifications required.
11	Direct the SWRB to undertake a broad consultative process with providers, employers and social workers in order to develop the scope(s) of practice.
12	Direct the SWRB to regularly review the scope of practice to ensure currency and best practice, in consultation with stakeholders.
13	Redrafted section 6AAB should confirm the requirement for registered social workers to hold an annual practising certificate. This may mean withdrawing the proposed repeal of section 25 of the Act.
Experience pathway to registration	
14	Support the delayed commencement of clause 10 by five years, except as noted below in recs 15 and 16.
15	To minimise the risk of workforce disruption, retain limited access to registration on the basis of experience (without qualifications) beyond the proposed 5-year period. Conditions may be applied to such registered social workers, with a process for this to be worked through between the SWRB and the NGO sector.
16	Exemptions should continue to be given to those who are still in the process of studying towards a recognised qualification, and that these conditions remain until the person has obtained this recognised qualification either through a full-time or part-time study plan.
17	Amend Section 13 to note these exceptions in recs 15 and 16.

18	Seek annual reports from the SWRB on the numbers of people applying for and receiving registration under s13, and consider amending clause 2 if insufficient progress is being made.
19	Reinstate the NGO Study Awards Scheme as a way of implementing targeted capacity-building for those seeking to gain qualifications recognised for registration and to reduce the cost burden for NGOs.
20	Note the barriers to qualification for many currently-employed social workers and draw these to the attention of Hon Tracey Martin for her review of social worker training.
Competency assessment and professional development	
21	Agree with clause 14 amending section 27(3)(b) to replace five-yearly competence assessment with ongoing professional development.
22	Review the intent behind clause 15 and the language referring to professional development – the term ‘continuing professional development’ is preferred.
23	Provide clarification of the term “undue cost” used in new section 38A and confirm the process by which this will be established, noting the likely cost imposition for NGOs.
Voluntary deregistration	
24	Amend section 21 to define a process for voluntary deregistration.
Employment Implications	
25	Amend clause 28 and new section 47A to: (a) Refer to ‘serious professional misconduct’ instead of ‘serious misconduct’, as a means of minimising confusion between the registration and employment law settings. (b) Require employers to report proven cases of serious professional misconduct to the SWRB, once employment processes have been completed. (c) Require employers to report instances of a social worker leaving their employment while a complaint of serious professional misconduct is under investigation. (d) Include a process for reporting serious professional misconduct for contracted or self-employed social workers.
26	Amend clause 32 to define the term ‘promptly’.
27	Assess the cost imposition on employers arising from mandatory registration, in particular, the revision of employment agreements and various documentation and processes, and training programmes for management and staff to equip them to understand the new employment processes.
28	Note the likelihood of mandatory registration increasing pay expectations with the consequent additional pressure on NGO funding.
Social Workers Registration Board	
29	Broaden the role of the SWRB to include a stronger focus on provision of advice to Ministers, and the leadership of relevant public education and consultative processes.
30	Consider a change in the funding mechanism for the SWRB from a fee-based income structure to a Crown appropriation.
31	Oppose the amendment to clause 67, and retain the current ten-person membership of the SWRB to ensure it reflects a diversity of perspectives
32	Ensure social workers remain the majority membership of the board and that there is appropriate Māori, professional, employer and non-government representation.

General Comments

1. Mandatory Registration

- 1.1. SSPA supports the mandatory registration of social workers (clause 4, which repeals section 3(c)¹). The current voluntary registration approach has fallen short of fully establishing social work as a recognised and regulated profession. As a result, it risks undermining the primary policy objectives of maintaining public accountability, ensuring public safety and promoting transparency within the profession.

Differential approaches to voluntary registration

- 1.2. SSPA members have responded in different ways since the 2003 Act came into force. Some SSPA members have adopted employment policies requiring social workers to be registered or be working towards registration. Others have responded to market challenges by choosing to take a voluntary approach to registration. Market challenges faced include:
- Labour shortages in certain geographic areas, particularly within rural communities
 - Difficulties in employing experienced people that are able to meet client needs in specialist areas of practice
 - Inability to pay market rates for registered social workers
 - Cost and logistical challenges relating to attendance at institutions that offer the recognised Bachelor of Social Work (Hons) qualification (noting the availability of online courses)
 - Some perceptions of lack of quality in some social work training provision
 - Lack of resources available to support new graduates in their social work practice.
- 1.3. These challenges are part of the context in which mandatory registration is being introduced. The policy documents underpinning the Bill do not demonstrate a strong understanding of the context in which NGO social workers work, which is a concern, given that approximately half the social worker workforce is in the NGO sector. The lead agency for implementation will need to have, or obtain, a clear understanding of the NGO social work landscape to ensure the legislation is embedded with best effect. This is best achieved through direct consultation with NGO social workers and providers.

Cost issues

- 1.4. The NGO sector is affected by long-term and persistent under-funding and this often creates real tensions between available resources and the level of professional service able to be provided. Lack of funding has the potential in some cases to lead to practice that may not be delivered consistently or to recognised professional standards. Funding constraints experienced by NGO providers have impacted on their decisions whether to fill vacant roles with registered or non-registered social workers. Salary, ongoing registration and continuing professional development (CPD) training costs are factored in to recruitment decisions. In the medium to long term, the employment of registered vs non registered social workers necessarily impacts on both the capacity (level) and quality (capability) of the NGO's workforce offering to clients. If this is viewed from a 'child-centred system' lens and delivered within a consistent professional framework, then in the NZ context, addressing funding must necessarily follow. While this is not a matter for the Bill to reflect, it is a critical matter for the select committee to take up with the government agencies that contract services to be delivered by NGO social workers.

¹ In this submission, we use 'clause' to refer to the Bill and 'section' to refer to the 2003 Act.

- 1.5. A further funding-related issue is the current wage disparity between social workers in the government and non-government sectors. We make further comment on these issues below under 'Employment Implications'.
- 1.6. We asked members what impact they believe mandatory registration will have on their organisation. Around half cited concerns that they would not be able to afford the costs associated with registration and few felt they would be able to support current staff to study, either directly through course payment or by providing paid leave for staff undertaking such study. As in previous submissions on this subject, members are seeking registration costs to be kept to a minimum and for processes to be as streamlined as possible.
- 1.7. The registration system and processes proposed in the Bill will impose costs on NGO providers as employers and as managers of services. We outline these costs in various sections below. In the context of an under-funded sector, it is reasonable to ask government agencies to fund the additional costs associated with this improved system which will be imposed on NGO sector agencies. Given these agencies are largely funded through an outcomes-funding and contributory-funding model, discussion will be needed about the mechanisms to recognise the additional compliance costs this legislation will impose on the NGO sector.
- 1.8. Concerted and resourced action will be needed to ensure mandatory registration does not create unintended and unhelpful consequences for providers and for service users. In particular, we are concerned that a compulsory registration scheme, implemented without supplementary funding, will force NGOs with limited funds to prioritise paying for registration related costs, at the expense of maintaining core functions, including those that are child-centred. Ultimately, such outcomes undermine the public safety and public accountability objectives that this Bill seeks to address.

Recommendations:

1. SSPA supports mandatory registration of social workers as a means of promoting public accountability and public safety, and recognising the value of professional social work.
2. The additional costs to NGOs of mandatory registration should be reflected in contracts for services. In particular, transition costs, including capability development, and compliance costs such as ongoing CPD costs should be funded for NGOs.
3. The lead implementation agency should engage in direct consultation with NGO providers and social workers to establish appropriate implementation processes.

2. Two-year period before the amended Act comes into force

- 2.1. We asked members whether they could be ready for mandatory registration in two years. Most (around three-quarters) said this was sufficient time. Of those who were positive, this comment was typical:

“The industry has been well notified that compulsory registration is on the horizon.”

- 2.2. Others were less positive and raised important points for consideration:

“Our organisation will only be able to meet this timeframe if a legislative change is accompanied by government investment in capacity-building to get our workforce to a level that is registrable.”

“...we want our staff to have practice within a Māori framework. We have 25 staff currently employed. To have degrees and one is currently completing her 3rd year. We are the same as many kaupapa Māori service across the country. This Act will see the closure of services like ours which have a high success rate working with Maori engagement. Our workers are whanau-based workers. Two years would not give services like ours up to a level of qualification. We would also expect that our workers are kaupapa Māori trained as a priority – the only training at this level is in the North Island.”

- 2.3. Some reservations were expressed by those who generally felt two years was a long enough lead-in time, including:

“As our organisation employs people part time, the amount of hours required to be able to register might not be able to be accumulated in that time.”

“What about those taking a career break, on maternity leave or about to return home from overseas?”

“There are people who will start studying now but will not graduate until after the Bill [takes force]”

- 2.4. Given the feedback we received from members and the significant issues they raised, we would be very concerned if the transition period was shortened.

Recommendations:

4. Retain the proposed two-year period before the Act comes into force to enable a managed transition.

5. Consider a mechanism to exempt people who are in the process of studying for a social work degree (which can take up to 8 years part time). Exemptions should only be given to students beginning a course that starts before the 2 year enactment date.

3. Title 'social worker'

- 3.1. We support the intent of clause 8 which provides for the protection of the title 'social worker' for those who are registered, but have significant reservations about the definition provided in new section 6AAB which are outlined in the next section. It is critical to public understanding and confidence that the job title has a specific and consistent meaning that is widely understood.
- 3.2. Currently there is not a clear understanding of what this job title entails. For example, in the 2013 census 18,330 people described their job as 'social worker', which is approximately double the actual number of social workers. 'Social worker' is clearly used to describe a wide variety of social services roles and conversely many people who are registered social workers have a different job title than 'social worker'². The Bill provides a useful opportunity to remedy this confusion.
- 3.3. Getting value from the move to a protected title will require a public education programme in the two-year period before the Act comes into force. Such a programme needs to be funded as part of the implementation of the Act and an agency designated to lead. We suggest the SWRB is best placed to oversee the design, co-ordination and delivery of this programme.

Oranga Tamariki social workers

- 3.4. We note that the Oranga Tamariki Act 1989 defines a social worker as "a person employed under Part 5 of the State Sector Act 1988 in the [Oranga Tamariki] department as a social worker". Clearly the Bill has application to social workers employed in a wide range of settings, government and non-government, so clarification is needed about whether consequent change is required to the Oranga Tamariki Act.

Recommendations:

6. SSPA supports clause 8 and the protection of the social worker title.
7. Establish a funded public education programme to provide clarification and consistency for the public about the title of social worker.
8. Clarify whether any consequent changes required to the Oranga Tamariki Act 1989 regarding the definition of 'social worker'.

² <https://anzasw.nz/social-workers-registration-legislation-bill-3/> Appendix to ANZASW submission template

4. Defining scope of practice

- 4.1. The effectiveness of the job title protection is, however, limited by the absence of a scope of practice describing what the title 'social worker' means and explaining who and what is covered by this regulation system. The definition contained in clause 8 (new section 6AAB) does not meet the intended purpose, as outlined below.

Employer definition of 'social worker', for the purposes of registration

- 4.2. In effect, the Bill places the obligation on employers to define what a social worker does. We do not support this approach, on the grounds that it would undermine the intent of the legislation to have a consistent understanding of the profession of social work and would undermine the regulatory role of the SWRB. In effect, the employer becomes the key regulator which, in SSPA's view, is not consistent with the Government's expectations of good regulatory practice.³
- 4.3. Further, this approach enables situations where people employed to do social work tasks are described by other job titles as a way of avoiding the standards and processes of the registration system. There are negative potential consequences arising from this:
 - For the individuals concerned: loss of or lack of access to professional job status; fewer progression pathways; lower remuneration (especially if social workers achieve pay equity).
 - For the public and service users: loss of confidence in the social work profession; reduced access to skilled and qualified social work interventions; lack of consistency of service response; clients potentially not achieving optimal life/health outcomes.
 - For providers: loss of reputation; possible sustainability consequences; difficulty in recruiting and retaining staff; unable to secure contracts which may specify delivery by registered social workers.
- 4.4. Note: our proposal does not preclude employers from shaping job descriptions to respond to their organisational needs and context.

How should scope of practice be defined?

- 4.5. SSPA recommends new section 6AAB be withdrawn and redrafted to provide a clear definition of the term 'social worker' using a 'scope of practice' approach similar to the Health Practitioners Competence Assurance (HPCA) Act.
- 4.6. SSPA has considered the benefits and risks of three main approaches to defining scope of practice: definition written in the Act; definition in regulation; or definition delegated to a designated authority – the latter is our preferred option.
- 4.7. Writing a definition into the Act or into regulation is likely to be too restrictive and unresponsive to emerging changes in practice and the diversity of practice in statutory and non-statutory settings. This would hamper the ongoing development of professionalism and the profession's ability to incorporate new thinking into their practices. Such a definition may, unintentionally, be weighted more towards defining statutory social work, whereas social work is practised in a wide variety of settings. Therefore any defined scope of practice would need to reference all fields of practice including the crucial functions and services that social workers provide.

³ <http://www.treasury.govt.nz/regulation/informationreleases/pdfs/good-reg-practice.pdf>

- 4.8. SSPA's preferred approach is to amend the Bill to require a designated authority to undertake a consultative exercise to specify a scope (or scopes) of practice which is then confirmed by Gazette notice. Such a scope of practice then becomes part of the framework for the regulation system. It is our view that the appropriate authority to do that is the SWRB.

What should the scope of practice include?

- 4.9. The HPCA Act defines professions according to a scope of practice that may include:

- Name of job title that is commonly used
- Reference to an area of learning
- Reference to tasks commonly performed
- Reference to illnesses or conditions that may be treated.

- 4.10. The HPCA Act also requires the qualifications and experience to be prescribed. Consistency between the regulation regimes for social workers and health practitioners seems appropriate.

- 4.11. A global definition of the social work profession exists, approved by the international social workers body in 2014:

“Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities and indigenous knowledges, social work engages people and structures to address life challenges and enhance wellbeing.

The above definition may be amplified at national and/or regional levels.”

- 4.12. This definition was acknowledged by SSPA members as being valid and useful in describing the aims and approach of social work. It was not, however, developed as the basis for determining whether an individual is eligible for registration, so would not by itself be sufficient for this purpose. Further, it does not and could not take account of New Zealand's unique cultural and institutional understandings arising from the Treaty of Waitangi. Considerations of those factors are critical in determining a definition of the term 'social worker' including in a description of 'body of knowledge' in the Aotearoa/New Zealand context.

- 4.13. We recommend the Act be amended to replace proposed section 6AAB with a new section requiring a designated authority, the SWRB, to prescribe a scope (or scopes) of practice, covering:

- Job title
- Body of knowledge and tasks (and where relevant specific to fields of practice)
- Required qualifications and experience
- The use of cultural frameworks such as kaupapa Māori and tikanga Māori.⁴

- 4.14. There is an argument for specific scopes of practice to define practice in specific areas of social work. This is the HPCA model, although the comparison is not an exact one, as the HPCA covers a number of different health professions. The argument is less compelling for the single profession of social worker and may mitigate against a consistent professional practice framework. Further discussion is needed within the profession on this matter in order to avoid undue complexity – for example when a social worker moves from one employer or area of practice to another.

⁴ Theories in Māori social work: Indigenous approaches to working with and for indigenous people, Awhina Hollis-English, *Aotearoa New Zealand Social Work*, Vol 27, no. 4, 2015

Inclusion of managers and supervisors

- 4.15. Clarification is needed about whether registration extends to those in management or supervisory roles in relation to social workers. While there is a logic to this, the select committee should be aware of the workforce and employment implications for the NGO sector, where it is not uncommon for managers to come from other generalist or practice backgrounds.

Developing agreed scope of practice

- 4.16. We acknowledge that reaching agreement on a scope of practice definition is unlikely to be a simple process, as social work in New Zealand takes place in a wide variety of settings and has some unique features, in particular the place of the Treaty of Waitangi. We therefore recommend that sufficient time be taken to enable widespread consultation and, hopefully, consensus. This consultation process should include the views of ANZASW and social work providers that are well equipped to help develop this scope of practice. An extensive consultation process that engages all affected stakeholders would be consistent with the government directives about good regulatory practice.⁵ The two-year period before the Act takes force enables thorough consultation and it is important that the lead agency developing a scope of practice is funded adequately for the task.
- 4.17. Regular review of this scope of practice will ensure it continues to reflect emerging research trends and best social work practices. We recommend the SWRB be required to undertake a regular review and that such review be conducted through a consultative process that directly engages with stakeholders.

Monitoring the application of scope of practice

- 4.18. Regular and comprehensive monitoring will allow our proposed regulatory authority, the SWRB, to assess whether recruitment practices align with the components of the registration regime such as job title, and scope of practice. Such evaluation would serve the Bill's policy objectives of ensuring public safety, accountability to the public and improving professionalism within the social work sector.

Requirement for annual practising certificate

- 4.19. The requirement for an annual practising certificate is a core element of an effective regulatory regime for social workers. The Bill does not provide a clear obligation for registered social workers to hold this certificate, as it proposes to repeal rather than amend section 25. We presume this is an unintentional omission. A redrafted section 6AAB should include the requirement for a registered social worker to hold a current annual practising certificate – this becomes a condition of registration.

Impact for related areas of social service practice

- 4.20. SSPA is currently working with Careerforce, the ITO for the health and social services sector, to define and describe the NGO social services workforce. Our initial research indicates that, while social workers are the largest single occupational group, there is a wide variety of other roles including administrative and managerial, family and community based support and education, and many specialist roles. Future work may lead to greater consistency of language describing job titles and a framework for qualifications that apply to specific roles.

⁵ <http://www.treasury.govt.nz/regulation/informationreleases/pdfs/good-reg-practice.pdf>

- 4.21. With the exception of related professions (such as counsellors and psychologists), other social service roles do not have and do not require registration. Amongst other things, this work is intended to help providers and other employers to distinguish social work from other roles carried out in the social services, which in turn could be a catalyst for better definition of the other roles and their requirements for skills and qualifications.
- 4.22. Over time, a workforce framework may assist in any redeployment strategies that may be required for those not seeking to register as social workers but doing valuable work with skills that should be retained in the sector.

Recommendations:

9. Withdraw new section 6AAB and redraft to designate the Social Workers Registration Board as the regulatory authority that, with consultation with stakeholders, will specify scope(s) of practice for social workers as a core component of the regulatory system for social workers.

10. Scope(s) of practice should include job title, area of practice, body of knowledge (including the use of kaupapa Māori and tikanga Māori frameworks), tasks commonly performed, experience, and qualifications required.

11. Direct the SWRB to undertake a broad consultative process with providers, employers and social workers in order to develop the scope(s) of practice.

12. Direct the SWRB to regularly review the scope of practice to ensure currency and best practice, in consultation with stakeholders.

13. Redrafted section 6AAB should confirm the requirement for registered social workers to hold an annual practising certificate. This may mean withdrawing the proposed repeal of section 25 of the Act.

5. Experience pathway to registration

Views on section 13 registration

- 5.1. SSPA has consistently advocated for the retention of an experience pathway for social worker registration, currently enabled through section 13 of the Act.
- 5.2. Our membership has a range of views on this, reflecting the diversity and experiences of the wide range of providers we represent. There is broad in-principle support for professionalism, with recognition that social workers are equivalent to other professions such as teaching and nursing, and recognition that there is a theory base and body of knowledge required for effective practice.
- 5.3. Some favour a fully qualified registration standard and have moved to that already as a matter of organisational policy.
- 5.4. Some members favour retaining the current voluntary approach to registration and in particular the need to keep an experience-based pathway. There will be a mix of reasons for this view:
 - It is seen by some as essential in order to retain valued and experienced staff.
 - The difficulty and cost of attracting qualified and registered social workers to a locality and/or who are suitable to work with their particular client groups. This view was emphasised by a manager in a large organisation who felt that it was particularly relevant in rural areas where many older, experienced social workers maintain strong relationships and have the trust of those communities.

Retention of an experience pathway

- 5.5. On balance, we suggest retaining a limited capacity to approve registration on the basis of experience in exceptional cases.
- 5.6. The basis for this recommendation is:
 - The composition of the current workforce. This raises the risk of loss of valuable experienced workers. As noted in the Regulatory Impact Statement, there is a risk of “serious workforce disruption” (para 130). The impact for smaller agencies in particular could be profound and damaging. Retaining the experience pathway is one way to mitigate the impact of the ageing workforce.
 - Rising demand, in particular for experienced practitioners. We note the projected increasing demand for social workers, with MBIE forecasting a 2.7% increase in the number of social workers likely to be required to 2020 and a further 2.1% to 2025.⁶ This is not the time to be creating conditions that may deplete this workforce or hinder its development. An outflow of experienced practitioners will indeed create serious workforce disruption.
- 5.7. We suggest any concerns could be mitigated attaching conditions to a registration under s13 where appropriate. The SWRB and NGO sector, where the majority of s13 applications will come from, should engage to work through the details of implementation.

⁶ <http://occupationoutlook.mbie.govt.nz/social-and-community/social-workers/>

Barriers to obtaining qualifications

- 5.8. The 2003 Act provided a signal that qualifications were likely to become a requirement for registration but we note that, despite this, there are still many experienced but not qualified people employed as social workers who have not sought registration. It is important to understand the barriers so that the impacts of a move to mandatory registration can be mitigated, where possible.
- 5.9. The barriers to obtaining a four-year degree qualification are significant and may include:
- The cost of tertiary study– we note a BA Hons in social work costs in excess of \$23,000 in fees, plus the other costs associated with being a student. For many this will be unmanageable, even if discounted by a year’s free fees.
 - Income foregone by those currently in the workforce who cease work or reduce work hours.
 - Access to tertiary institutions within reasonable travel distance from home.
 - Access to tertiary institutions that allow prior experience to be partly credited towards the overall credit requirement, as well as distance learning for both full-time and part-time study.
 - The age profile of the current workforce and the difficulty for many of stopping work and returning to full-time or part-time study, or taking up tertiary study for the first time in years.
 - Access to qualifications that incorporate kaupapa Māori and tikanga Māori theories or other culturally appropriate frameworks.
- 5.10. As well as the cost imposition to employers, there is a cost imposition for a significant part of the current workforce, who will now need to consider formal study. We note that those aged over 55 years have limited access to student loans⁷ which constitutes a significant financial barrier. If study is not a possibility, this group will need to rely on a s13 application for registration if they wish to keep working till 65 or beyond.
- 5.11. A strong transition plan will be needed to assist those in the current workforce to become registered. This will require funding, possibly including the reinstatement of the NGO study awards scheme, which was an effective way of implementing targeted capacity-building for those seeking to gain qualifications recognised for registration and to reduce the cost burden for NGOs.
- 5.12. If an effective transition programme does not happen, we risk losing a portion of the current workforce that has considerable experience and may not be easily replaced.

Five year transition period

- 5.13. In the event that the decision is taken to remove section 13 registrations, SSPA supports clause 2 in the Bill that provides for a five-year transition period during which registration on the basis of experience will remain possible. On the whole this is a sensible move and recognises the scale of the challenge mandatory registration presents.
- 5.14. We note the potential need for some exemptions for those who are enrolled in a course of study for a social work degree, especially those who are studying part-time (potentially an 8 year course of study) and will not have completed their degree in the 5 year period.
- 5.15. We also draw to the select committee’s attention the comments from some SSPA members that without government investment, they do not expect to be able to support their current workforce to apply for registration. One specific comment was that *“the costs of social work registration are still too high in relation to the level of wages/salaries that social workers typically earn. Hopefully these costs will come down if social work registration is made mandatory.”*

⁷ <https://www.studylink.govt.nz/in-study/change-in-circumstances/age/turning-55.html> - Only available for compulsory course fees.

- 5.16. There should be no presumption that older workers should not be supported to register – contrary to the inference in the Cabinet paper which suggests that people near “retirement age” would not bother to seek registration. This is an important group of social workers to retain in the workforce.
- 5.17. We recommend an active and concerted effort to maximise the number of unqualified social workers in the current workforce who are assisted to apply for registration during this period. We received feedback from some members who perceive there is currently inconsistent practice by the SWRB in considering s13 applications. If there is to be a move over the next 5 years – as we recommend there should be – to assist as many suitably experienced social workers as possible to register under s13, a consistent approach is needed, which could include applications being peer reviewed by others on the SWRB to ensure consistency of decision-making.
- 5.18. We recommend the select committee seeks a report from the SWRB annually once the Bill is passed in order to assess whether sufficient progress has been made towards registration for this category of social workers. This provides the opportunity to amend clause 2 if necessary. We would be concerned if there is any move to shorten the transition period, as there are significant issues to be managed. If anything a longer transition period may be more workable.

Review of social work qualifications

- 5.19. We note that Hon Tracey Martin has an Education portfolio delegation to lead a review of the quality of social work pre-service tertiary education qualifications, including the number of providers. With this Bill under consideration, it is timely that this review is to be undertaken as a more flexible approach to qualification is needed, as well as consideration of the content of social work training. The extent to which experience may be recognised alongside prior learning should be considered, and there may be scope for developing additional work-based learning pathways towards qualification. Consideration should also be given to the balance between theory, applied theory in practice, and experience. SSPA will seek to engage with this important review.
- 5.20. Feedback from SSPA members indicates a high level of professional and organisational support is needed – and provided – for new graduates employed as social workers, as would be expected in any profession. The feedback indicated gaps in new graduates’ knowledge of areas such as attachment theory and engagement skills. All recognised the importance of structured support and supervision and a development programme, especially in the early stages of employment, but nonetheless, greater pre-employment preparation and work readiness would be welcome.

Recommendations:

14. Support the delayed commencement of clause 10 by five years, except as noted below in recs 15 and 16.

15. To minimise the risk of workforce disruption, retain limited access to registration on the basis of experience (without qualifications) beyond the proposed 5-year period. Conditions may be applied to such registered social workers, with a process for this to be worked through between the SWRB and the NGO sector.

16. We recommend that exemptions continue to be given to those who are still in the process of studying towards a recognised qualification, and that these conditions remain until the person has obtained this recognised qualification either through a full-time or part-time study plan.

17. Amend Section 13 to note these exceptions in recs 15 and 16.

18. Seek annual reports from the SWRB on the numbers of people applying for and receiving registration under s 13 and consider amending clause 2 if insufficient progress is being made.

19. Reinstate the NGO Study Awards Scheme as a way of implementing targeted capacity-building for those seeking to gain qualifications recognised for registration and to reduce the cost burden for NGOs.

20. Note the barriers to qualification for many currently-employed social workers and draw these to the attention of Hon Tracey Martin for her review of social worker training.

6. Competency assessment and professional development

- 6.1. SSPA supports the moves to give greater emphasis to continuing professional development. We agree with clause 14 which amends s27(3)(b) and removes the requirement for a 5-yearly competence assessment.
- 6.2. We also note that clause 15 amends 29(2)(b) and replaces ‘continuing professional development’ with undertaking professional development programmes’. The policy rationale for the change of language is not clear especially as the term ‘continuing professional development’ is widely used in social work and other professions and implies ongoing development, rather than undertaking periodic courses. In the absence of a strong rationale, we recommend removing clause 15.
- 6.3. The feedback from our members is that the current format for assessing the value and application of professional development undertaken is adequate but can no doubt be further improved. Greater detail will be needed to ensure there is understanding and consistent application of the requirements for continuing professional development, including the number of hours to be logged.

Cost imposition

- 6.4. Clause 22 inserts new section 38A that states that the professional development requirements must not impose undue cost on employers. SSPA supports this approach and welcomes the cost-control signal this term gives, but it would be helpful to have clarification about what would constitute an “undue cost” so that a practicable approach can be developed.
- 6.5. Notwithstanding the value of continuing professional development, this requirement imposes additional costs on NGOs. Where government contracts with NGOs specify services to be delivered by registered social workers, those contracts should factor in the costs of registration, the APC process and the professional development required to maintain registration.
- 6.6. In addition, we note the comment from around half of our members that it would be difficult logistically to balance obligations to meet client needs with providing sufficient training and development for employees. This is likely to be particularly relevant to smaller NGOs that work in very specific areas. Such costs further reinforce the need for the contracting regimes to be reviewed to ensure they align with, and do not undermine, the intent of this Bill. Continued under-funding will have that effect.

Recommendations:

21. Agree with clause 14 amending section 27(3)(b) to replace five-yearly competence assessment with ongoing professional development.
22. Review the intent behind clause 15 and the language referring to professional development – the term ‘continuing professional development’ is preferred.
23. Provide clarification of the term “undue cost” used in new section 38A and confirm the process by which this will be established, noting the likely cost imposition for NGOs.

7. Voluntary deregistration

- 7.1. In our July 2016 submission to the Select Committee Inquiry into the Operation of the Social Workers Registration Act 2003, SSPA advocated for a process for voluntary deregistration to be developed, separate from the processes for cancellation or suspension of registration. There are various circumstances in which a social worker may seek to forego their professional registration, for example when moving to a non-social work role. SSPA does not believe this positive process of voluntarily relinquishing registration should be conflated with disciplinary processes or managed through allowing a practising certificate to lapse.
- 7.2. We note this is absent from the Bill and ask the select committee to consider amending section 21 of the Act Surrender of certificate of registration, to include a new process for voluntary deregistration.

Recommendation:

24. Amend section 21 to define a process for voluntary deregistration.

8. Employment implications

- 8.1. Mandatory registration will have a number of employment-related implications. The ability for social workers to become and remain registered will be an important employment condition for the social workers and their employers. Registration processes must therefore be carefully aligned with current employment law and employment practices. It does not appear that the drafting has taken sufficient account of these employment laws and practices and we recommend the select committee seeks further specialised advice on the employment implications of the Bill.

Reporting serious misconduct

- 8.2. One particular issue of concern is the treatment of serious misconduct in the Bill. This will be likely to draw the SWRB into employment disputes and require them to rule on such matters. This is not a good fit with the role envisaged for the SWRB as it is not a judicial body and does not necessarily have expertise in employment matters.
- 8.3. Under new section 47A, employers will be required to promptly report to the SWRB if they believe one of their social workers has committed serious misconduct. This implies notification once a complaint has been received or the employer is otherwise made aware of a concern⁸. We agree that the SWRB should be notified in cases of serious misconduct, but recommend that reports to the SWB should be of substantiated findings, not unsubstantiated concerns. Allegations should first be addressed between employer and employee through contractually agreed employment processes.
- 8.4. An exception to this would be when a person resigns while an investigation is in progress. In such circumstances, the SWRB should be notified, to mitigate the risk of a social worker avoiding dealing with allegations and moving to another employer without the alleged misconduct being recorded. Public safety will not be enhanced if the law inadvertently provides for people to change employment to avoid professional conduct investigations.
- 8.5. Misconduct allegations are always difficult matters to handle in a workplace and this clause introduces the risk that resolution will be harder to obtain if deregistration is an additional outcome to any employment consequences. We would expect to see greater litigation and escalation of issues in such cases, given that deregistration will severely limit the ability of the person concerned to continue or resume their career as a social worker.

Definition of 'serious misconduct'

- 8.6. The definition of 'serious misconduct' contained in clause 28 (new section 47A) has a different meaning to the framing provided by MBIE, the government's primary advice source on employment matters, which says: "Serious misconduct is labelled 'serious' because it can have the effect of destroying or undermining the relationship of trust and confidence between an employee and employer. Without this trust and confidence an employment relationship can't continue."⁹
- 8.7. It may be helpful to use the term 'serious professional misconduct' instead, to clarify the specific context in which the SWRB has involvement.

⁸ For example, Section 47A(2) states that this report must "describe the action (if any) the employer has taken in relation to the allegation"; this does not presuppose action has been taken.

⁹ <https://www.employment.govt.nz/resolving-problems/types-of-problems/misconduct-and-serious-misconduct/>

Definition of 'promptly'

- 8.8. Clause 32 amending Section 51, subsection (1A), states that failing to promptly report serious misconduct may constitute professional misconduct under subsection (1B). Greater clarification is needed on what timeframe is considered prompt, so all parties are aware of the timeframe and are given sufficient time to prepare in matters of serious misconduct.

Contractors and self-employed social workers

- 8.9. Some social workers may not be in an employment relationship, but may instead be self-employed, or operate as contractors including those in private practice. Clause 28 does not make provision for this situation and leaves a loophole in the reporting process. This loophole must be closed in order to ensure that all social workers are held to the same professional standards.

Cost imposition

- 8.10. There are a number of specific employment-related costs that are likely to be imposed on employers if the registration regime is implemented in its current form:
- The need to redesign and renegotiate employment agreements for both existing employees and prospective employees. In particular, agreements would need to clearly state the legal obligation employees and employers have to report serious misconduct and the potential consequences.
 - The need to redesign policy and other documentation including recruitment, induction and policy manuals¹⁰.
 - Additional recourse to external employment advice and legal costs to deal with alleged serious misconduct.
 - Training and support for managers that help them understand and apply the proposed employment processes for handling serious misconduct within their organisation.
 - Training and information for staff to enable them to understand their role in situations of serious misconduct and the actions they are expected to take.
- 8.11. As with other proposed changes to the registration system, the cost imposition on employers must be acknowledged and funding provided to address these costs.

Impact on pay expectations

- 8.12. Mandatory registration is expected to boost pay expectations, as the profile of social work as a recognised and valued profession grows. The cost for individuals of gaining a four-year degree, with the resulting student debt, will also drive pay expectations, especially for higher starting salaries.
- 8.13. Currently, social work is not generally regarded as a well-paid profession, and for NGO social workers this is compounded by the pay parity issues between government-employed social workers and those working in the non-government sector. Few NGO employers are able to pay the market rate set by Oranga Tamariki and DHBs which poses recruitment and retention challenges.
- 8.14. It is likely that increased pay expectations will not be able to be met by NGO sector employers within current funding levels. If this matter is not resolved, the current recruitment difficulties will be exacerbated, to the detriment of NGO services and service users.

¹⁰ All providers accredited under s396 or s403 of the Oranga Tamariki Act 1989 are required to have HR policies that define serious misconduct and processes for dealing with allegations.

8.15. These are not matters that can be reflected in the Bill but SSPA feels are important context for the select committee.

Recommendations:

25. Amend clause 28 and new section 47A to:

(a) Refer to 'serious professional misconduct' instead of 'serious misconduct', as a means of minimising confusion between the registration and employment law settings

(b) Require employers to report proven cases of serious professional misconduct to the SWRB, once employment processes have been completed.

(c) Require employers to report instances of a social worker leaving their employment while a complaint of serious professional misconduct is under investigation.

(d) Include a process for reporting serious professional misconduct for contracted or self-employed social workers.

26. Amend clause 32 to define the term "promptly".

27. Assess the cost imposition on employers arising from mandatory registration, in particular, the revision of employment agreements and various documentation and processes, and training programmes for management and staff to equip them to understand the new employment processes.

28. Note the likelihood of mandatory registration increasing pay expectations with consequent additional pressure on NGO funding.

9. Social Workers Registration Board

- 9.1. The focus of the Bill is on the details of the registration system, with less attention paid to the operation of the SWRB. The select committee hearing provides an opportunity to consider issues which may not have been prioritised when the Bill was introduced in the previous parliamentary term.

Role of the SWRB

- 9.2. The SWRB is a State sector agency, a Crown agent, charged with the regulation of social workers. It has a limited advisory role: “to advise, and make recommendations to, the Minister in respect of matters relating to the regulation of the social work profession”¹¹, although this function is not highlighted in the latest Statement of Performance Expectations 2017 – 2018.
- 9.3. This Bill provides an opportunity for reviewing this funding mechanism and also the role of the SWRB. A broader advisory and promotional role, together with increased operational funding, will be necessary to give best effect to the implementation of this important set of changes to the social work profession.

Funding of the SWRB

- 9.4. Unlike some other Crown agencies, SWRB is solely reliant on income from payments by social workers who apply for registration, from registered social workers who wish to maintain their registration and from tertiary education organisations that require their social work qualifications to be recognised for the purposes of the Social Workers Registration Act 2003.¹²
- 9.5. Some other regulatory agencies such as the NZ Law Society are funded by their professions and operate as companies. This approach is not appropriate for the SWRB, as a Crown agency with a strong public good focus. We also note the overwhelming majority of social workers are directly or indirectly employed by the State, which supports the continuation of Crown agency status.
- 9.6. Further, keeping the SWRB reliant on fees for its income could act as a disincentive for them to prioritise ways to cut costs. Providers have consistently sought registration fees to be reduced.
- 9.7. We recommend consideration is given to reviewing the funding of the SWRB. While there are various possible funding mechanisms, an appropriation to the SWRB would be the most straightforward, with fees received being income for the Crown. An appropriation would provide greater certainty of income than the current fees system, and would properly acknowledge the contribution the SWRB makes to both public safety and the well-being of children and families.

Membership of the Board

- 9.8. We note the proposal in Schedule 1 to alter the size and composition of the Board including reducing the size of the Board from 10 to 7 members. This reduces the number of social workers from 6 to 4; and ‘other people’ from 4 to 3. Employer representation is specified as an additional requirement for the Board.
- 9.9. The rationale for reducing the number of members is not clear, unless it is a generic view that smaller boards are more effective than larger ones – a disputed point where it results in less diverse and representative boards.

¹¹ <http://swrb.govt.nz/about-us/>

¹² <http://swrb.govt.nz/about-us/news-and-publications/publications/> Statement of Performance Expectations 2017-18, p.11

- 9.10. The proposal for employer representation has merit, given the implications of mandatory registration for social work employers.
- 9.11. SSPA supports the continued representation of Māori.
- 9.12. SSPA believes social workers should be strongly represented on the SWRB and should not be able to be 'out-voted'.
- 9.13. It also seems appropriate to ensure there is sufficient and appropriate non-government representation on the Board. This should include ANZASW. SSPA is also able to offer a wide perspective across a large number of providers and employers of social workers.
- 9.14. Given the diversity and range of employment and organisational settings in which social work is practised, retaining a ten-person Board seems appropriate. We therefore oppose the amendment to clause 67.

Recommendations:

29. Broaden the role of the SWRB to include a stronger focus on provision of advice to Ministers, and the leadership of relevant public education and consultative processes.

30. Consider a change in the funding mechanism for the SWRB from a fee-based income structure to a Crown appropriation.

31. Oppose the amendment to clause 67, and retain the current ten-person membership of the SWRB to ensure it reflects a diversity of perspectives

32. Ensure social workers remain the majority membership of the board and that there is appropriate Māori, professional, employer and non-government representation.