



Cabinet

Minute of Decision

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Increasing the Professionalism of the Social Work Workforce

Portfolios Social Development

On 15 May 2017, following reference from the Cabinet Social Policy Committee (SOC), Cabinet:

Background

- 1 **noted** that in March 2017, Cabinet:
 - 1.1 approved the government response to the Social Services Committee report *Inquiry into the operation of the Social Workers Registration Act 2003* (the government response);
 - 1.2 agreed to further work to identify the best options to increase the professionalism of the social work workforce;
 - 1.3 invited the Minister for Social Development to report to SOC in May 2017 with reform proposals (including any legislative proposals);

[CAB-17-MIN-0090]

- 2 **noted** that the government response was presented to the House on 21 March 2017;
- 3 **noted** that to protect vulnerable clients and effectively deliver the interventions that form part of the government's social investment approach, a competent and skilled social work workforce is essential, and legislative reform is required to increase and cement the professionalism of the social work workforce;

Registration of social workers

- 4 **noted** that the current regulatory regime provided for in the Social Workers Registration Act 2003 (SWR Act) is primarily one of voluntary certification that protects the title of "registered social worker";
- 5 **noted** that the extension to mandatory certification and title protection to protect the title of "social worker" is expected to extend the coverage of the registration regime to include the estimated 2,000 practising social workers not currently registered, effectively ensuring mandatory registration for social workers;

- 6 **noted** that extending the SWR Act to include forms of task or occupational licensing is not recommended because of the difficulty in defining social work in ways that will not risk disruption across the social service and health sectors, or undermine the multidisciplinary approach being advanced by the new delegation regime in the Children, Young Persons and their Families Act 1989;
- 7 **agreed** that the regulatory regime provided for in the SWR Act become one of mandatory certification and broader title protection so that only those who register are able to call themselves 'social workers';
- 8 **agreed** that the SWR Act be clarified to reflect the intent that the requirement for registration and holding a practising certificate arises only if the job title or statutory position title is "social worker", or if a person is claiming to be a social worker, or if a person is undertaking 'restricted tasks' that can only be undertaken by a social worker;
- 9 **noted** that to minimise disruption to the social services sector a two-year timeframe for implementation of the reforms proposed in the paper under CAB-17-SUB-0234 is recommended, unless otherwise specified;

Further changes

- 10 **agreed** to change the criteria for appointment to the Social Workers Registration Board (the Board) to include someone to represent the interests of the employers of social workers;
- 11 **agreed** to reduce the number of members of the Board from ten to seven, to improve the efficiency of governance of the Board;
- 12 **noted** that section 13 of the SWR Act allows the Board to register those social workers who have achieved a sufficient depth and breadth of experience in social work but do not have a recognised social work qualification;
- 13 **noted** that the Board has the ability to grant restricted registration with limited scope of practice that enables social workers with deep on the job experience to practice in a particular field of work;
- 14 **agreed** that the current section 13 pathway be phased out over time, during which time the Board will consider registration with restrictions on the area of practice for social workers with specialist rather than broad experience;
- 15 **agreed** that the removal of the current section 13 pathway will not affect validity of the registration of those social workers who have already obtained registration via section 13;
- 16 **agreed** to a phase-out period for the section 13 pathway of five years;
- 17 **noted** that the Ministry for Social Development and the SWR Board will work closely with the New Zealand Qualifications Authority, Tertiary Education Providers, and the Tertiary Education Commission as appropriate, to ensure that the Board's registration requirements take account of applicants' prior learning and provide flexible learning opportunities;
- 18 **agreed** that the current competence assessment processes in the SWR Act be replaced with the following:
- 18.1 the Board only require social workers to carry out competence programmes or assessments at the point of registration if they have an overseas qualification, or if concerns have been raised with the Board about their competence;

- 18.2 in place of the current formal five yearly reviews, each year social workers must complete professional development requirements to ensure competency, the nature of which are set and monitored by the Board;
- 19 **agreed** to the inclusion of 'qualification principles' such as are included in the Health Practitioners Competency Assessment Act 2003 (HPCA Act) to guide the Board's recognition of social work qualifications, to ensure the prescribed qualifications are necessary to protect the public and not too costly to practitioners or the public;
- 20 **agreed** that the Board's discretionary power to set programmes or competence assessments for the purposes of evaluating competence be retained;
- 21 **agreed** that, to provide a clear signal of the significance of other factors that the Board takes into account when assessing a person's fitness to practice social work, the SWR Act be amended to provide a more comprehensive list of the factors that the Board currently considers in the exercise of its discretion (including mental or physical health issues and disciplinary history);
- 22 **agreed** that employers of social workers should be required to notify the Board if:
- 22.1 a social worker, despite undertaking remedial competency procedures, continues to practise below the required standard of competence;
- 22.2 the employer believes on reasonable grounds that because of a mental or physical condition, a social worker may be unable to perform the functions required to practise social work;
- 22.3 the employer believes on reasonable grounds that a social worker has engaged in serious misconduct, meaning conduct that adversely affects or is likely to adversely affect the well-being of a client, reflects adversely on the social worker's fitness to practise social work, or which may bring the social work profession into disrepute;
- 23 **agreed** to an obligation, enforceable through the standard disciplinary process, being placed on social workers to report any suspicions or beliefs, based on reasonable grounds, that another social worker cannot perform their required functions due to a mental or physical condition;
- 24 **agreed** that any notification required as a result of the decisions in paragraphs 22 and 23 will not attract civil or criminal liability if given in good faith;
- 25 **agreed** that the following tasks be reassigned from the Social Workers Complaints and Disciplinary Tribunal (the Tribunal) to the Board, so that the Board is required to:
- 25.1 receive and assess complaints, appoint or reconstitute complaints assessment committees;
- 25.2 receive and assess notifications of criminal convictions against social workers;
- 26 **agreed** that the current power of the Board to appoint members of the Tribunal be removed and vested in the Minister responsible for the SWR Act;
- 27 **agreed** that the investigative powers of complaints assessment committees be expanded to include powers to request and require documents or other information to be provided to them on the condition that:
- 27.1 there are reasonable grounds for exercising such powers;

- 27.2 persons are not required to provide any information or produce any document that would be privileged in a court of law or would breach an obligation of secrecy or nondisclosure other than one arising under the Privacy Act 1993 or Official Information Act 1982;
- 28 **agreed** that the options available to complaints assessment committees on determination of a complaint be expanded to include:
- 28.1 recommending the Board direct an apology from the social worker to the complainant;
- 28.2 appointing an independent person to act as a conciliator (as part of the current conciliation process set out in the SWR Act);
- 28.3 directing the complaint to mediation;
- 28.4 recommending the Board refer the subject matter of the complaint to the New Zealand Police;
- 28.5 recommending the Board censure the social worker;
- 28.6 recommending the Board direct the social worker to undergo training, counselling, and/or mentoring;
- 29 **agreed** that the current definition of professional misconduct in the SWR Act be amended to include any conduct that has brought or is likely to bring discredit to the profession;
- 30 **agreed** that the sanctions available to the Tribunal be expanded to include the power to:
- 30.1 suspend a social worker for a period of up to three years;
- 30.2 direct an apology from the social worker to the complainant;
- 31 **agreed** that the Tribunal be able to cancel registration on any of the grounds of discipline in section 82 of the SWR Act and, where the issue is about professional misconduct, that an appropriate threshold for cancellation be considered during the legislative drafting process;
- 32 **agreed** that the Board's current interim suspension power be recalibrated in line with the HPCA Act to enable the Board to impose interim suspension or impose conditions:
- 32.1 where there are reasonable grounds for believing that a social worker poses a risk of serious harm to the public by practising below the required standard of competence;
- 32.2 if the Board considers that a social worker may be unable to perform the functions required to practise social work because of some mental or physical condition;
- 32.3 if a social worker is alleged to have engaged in conduct that:
- 32.3.1 is relevant to a criminal proceeding that is pending against the social worker, or an investigation about the social worker is pending under the SWR Act or under the Health and Disability Commissioner Act 1994;
- 32.3.2 in the opinion of the Board held on reasonable grounds, casts doubt on the appropriateness of the social worker's conduct in his or her professional capacity;

- 33 **agreed** that the Board be able to extend the current 10 day timeframe for interim suspensions for a further period where that extension is reasonable to allow further investigation or medical examination;

Technical changes

- 34 **noted** that there is an opportunity to improve or clarify some of the processes in the SWR Act;
- 35 **agreed** that the SWR Act be restructured and recalibrated in a way that is more in line with the HPCA Act, particularly in the areas of: competence and fitness to practise, and complaints and discipline;
- 36 [REDACTED]
- 37 **agreed** that the Board be expressly empowered to consider the question of fitness to practice when considering an application for a practising certificate but that a Police vet will not be required if the applicant has passed the vetting process within the previous three years unless additional concerns about fitness have been raised;
- 38 **agreed** that, if a matter concerning a social worker is under consideration by a complaints assessment committee and the Board considers that a further matter should form part of the committee's consideration, the Board be able to refer this matter to that committee;
- 39 **agreed** that the name of complaints assessment committees be changed to 'professional conduct committees' and that:
- 39.1 the membership of the Social Workers Complaints and Disciplinary Tribunal (the Tribunal) be amended so that the chairperson and deputy chairperson are required to be lawyers with not less than seven years' practical experience;
 - 39.2 the membership requirements of the Tribunal panel convened to hear and determine any particular matter are amended to comprise the chairperson or deputy chairperson, three registered social workers, and one layperson;
 - 39.3 as a consequential change, the current requirement that at least one member (of the Tribunal and of the Tribunal panel convened to hear and determine any particular matter) be a lawyer be removed;
- 40 **agreed** that:
- 40.1 wherever cancellation of registration is available, the Tribunal should also have the power to impose the lesser sanctions of suspension and imposition of conditions;
 - 40.2 it be made clear that cancellation or suspension (other than in interim situations) affects registration rather than a social worker's practising certificate and that cancellation or suspension of registration automatically cancels or suspends a practising certificate;
 - 40.3 the Board and the Tribunal be able to impose, in conjunction with suspension, conditions on a social worker's return to practise;

Social Workers Registration Bill

41 [REDACTED]

42 [REDACTED]

43 **invited** the Minister for Social Development to issue drafting instructions to the Parliamentary Counsel Office to draft the Social Workers Registration Amendment Bill, to give effect to the decisions in paragraphs 7 to 40 above;

44 **authorised** the Minister for Social Development to make any minor technical and administrative changes in line with the decisions under CAB-17-MIN-0234.

Michael Webster
Secretary of the Cabinet

Secretary's note: This minute has been reissued to correct the wording in paragraphs 28 and 30.2.

Hard-copy distribution:
Prime Minister
Minister for Social Development