



Social Workers  
Registration Board  

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Kāhui Whakamana Tauwhiro

**ENTITLEMENT TO REGISTRATION**  
**FIT AND PROPER PERSON**

**POLICY STATEMENT**

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## 1. Introduction and Obligations of the Board

The Social Workers Registration Act 2003 requires the Social Workers Registration Board (SWRB) to establish criteria for registration. Section 6 entitles a person who has a recognised NZ qualification to be registered if the Board is satisfied;

- a) that his or her competence to practice social work has been found satisfactory under Part 3; and
- b) that he or she is a fit and proper person to practice social work; and
- c) that (whether because of the inclusion of an appropriate component in that qualification, or else as a result of his or her satisfactory completion of a separate course or courses of training) he or she is:
  - competent to practise social work with Maori; and
  - competent to practise social work with different ethnic and cultural groups in New Zealand; and
- d) that he or she has enough practical experience.

This policy addresses the Board's responsibilities in respect of '*fit and proper person*' requirements under the Act.

Other criteria for registration on

- Competence
  - Enough practical experience
  - Recognised New Zealand qualification
- are defined in other policy papers published by the Board.

The Board recognises that there is, and is likely to continue to be, considerable interest in this matter. A wide range of opinion has been received and considered by the Board in the preparation of this policy statement. Most concern has centred on a range of certain criminal convictions such as; abuse of all kinds, domestic violence, serious alcohol and drug related incidents, protection orders, child molestation, violent offending, certain offences involving fire-arms, homicide and manslaughter.

Opinions and views have been sought on a position paper published by the Board prior to publication of this policy. The Board is satisfied that this policy adequately reflects the reasonable expectations and views of those in the public, social work profession and of other key stakeholders in the wider social work sector.

Sections 47 and 50 of the SWR Act outline specific factors to be taken into account when considering a person's fitness to be registered.

Section 47(1) enables the Board to find that an applicant for registration is not a fit and proper person to practice social work, if it is satisfied that a reasonable person would conclude this.

The grounds stated in s47 (2) take into account;

- A conviction, in New Zealand or overseas, for an offence that is punishable by imprisonment for 3 months or more, and an offence where the nature and circumstances of the offence reflect adversely on a person's ability to practice social work;
- That a person is unable to perform adequately the functions required to practice social work satisfactorily;
- That a person is not of good character and reputation.

s47 (3) enables the Board to reserve a decision on a person's registration and takes into account;

- any professional disciplinary proceedings in New Zealand or overseas,
- any licensing or registration organisation investigation that may lead to the taking of disciplinary proceedings,
- any investigations being conducted by the Health and Disability Commissioner,

Section 50 requires the Board, in order to help determine whether a person is a fit and proper person to practice social work, to check with the NZ Police for criminal convictions in NZ or overseas.

Section 51 allows any person who has concerns that a Registered Social Worker may be unable to practice social work satisfactorily to advise the Registrar of the circumstances.

Section 54 enables the Board to direct the interim suspension of a social worker's registration in cases where;

- a social worker is unable to adequately perform the functions of a social worker satisfactorily, and
- where there is a need to protect the health and safety of members of the public.

Section 82(1) (b) the act empowers the disciplinary tribunal to make a determination of 'fit and proper' on the basis that a person has been guilty of conduct that;

- is unbecoming of a social worker.
- reflects adversely on the social worker's fitness to practice as a social worker.

The Board recognises its obligation to ensure the right of appeal (s88) is adequately promulgated to persons affected by any decision or direction of the Board under the Social Workers Registration Act.

## 2. Discussion

The scope of this paper is to discuss the considerations associated with the 'fit and proper person' requirements that would allow the Board to proceed with registering social workers as at 1 October 2004.

The Disciplinary Tribunal, once it is established, will have a strong interest in these considerations. Evolving considerations of the Tribunal, as it proceeds with its responsibilities, will provide precedents for future reference. In addition, rulings and experiences of authorities such as the Human Rights Commission, the Commissioner for Children, the Health and Disability Commission, the Law Commission, the Ombudsman Office, and the Mental Health Commission, will also serve to inform the Board and the Tribunal.

Points at which 'fit and proper person' determinations are most likely to be made are;

- at the time of application (s47, s48)
- as a result of a notification of a conviction (s63)
- when considering interim suspension (s54) as a result of a notification from any person (s51)
- in considering whether to require a social worker to undergo a medical examination (s55) or under the provisions of (s57)
- as a result of a review by the Board following an investigation by a Complaints Assessment Committee (s71(1)(a)) following a referral by the tribunal relating to a charge laid against a social worker.

The Board will consider the intent of sections 100 and 101 of the act in determining the application of 'fit and proper person' criteria by taking into account any particular factors that are pertinent for Maori, Pacific Peoples, and other ethnic and cultural groups.

The SWR Act states (s47 (1)) not meeting the fitness to practice requirement requires that finding "that there are grounds on which a reasonable person would conclude that the subject is not a fit and proper person to practice social work".

The SWR Act focuses on the factors that the Board is required to take into account in determining when a social worker is not a 'fit and proper person' to be a registered social worker. The Board wishes to give some guidance towards considerations on what characteristics a 'fit and proper person' could demonstrate.

The Board is of the view that social work practitioners must be persons who possess the attributes of honesty and integrity appropriate to the professional position they hold. The requirements for registration, together with the accepted ethics of the profession and the Code of Conduct, as issued by the Board, are regulatory tools whereby the Board controls the suitability of persons for registration and their subsequent professional behaviour.

### **3. Principles**

The Board will observe the following key principles when considering 'fit and proper person' requirements;

1. It is the responsibility of the Board to undertake a Police check on all applicants for registration.
2. It is the responsibility of the applicant to demonstrate that he/she is a 'fit and proper person' to be registered.
3. The applicant is responsible for the provision of any additional information the board may require in order to make a determination on 'fit and proper'.
4. That 'good character' requirements may be met by an appropriate form of attestation.
5. That accumulated determinations may become 'case law' for the purposes of the Board and the Disciplinary Tribunal.
6. That specialist professional, cultural, and/or clinical expertise and advice will be sought to assist in the determination of 'reasonable' expectations in any situation of medical or any other infirmity that would impede an individual's capacity to undertake the responsibilities of social worker.

### **4. Offences**

The Board considers that conviction for offences of the nature listed below would most likely lead to a reasonable person concluding that a person is not 'fit and proper' to practice social work s47 (1):

- Homicide or manslaughter
- Sexual offending including pornography
- Violence against a person
- Fraud
- Offences towards children or other dependant persons
- Serious alcohol and drug related offences
- Weapons or firearms offences

The Board may make further enquiries about any conviction that could include:

- Judgement or sentencing notes from the court at which the applicant's case was heard.
- Summary of facts presented by the Police to the court.
- A solicitor's report of the circumstances relating to the conviction.

When considering the matter of convictions the Board will take into account the following factors:

- Nature of the crime or offence and relevance to the behavioural and attitudinal qualities expected of a member of the profession
- Repetition of offending or evidence of disregard for the law
- Penalty imposed by the court
- Age of the applicant at the time of the offence
- Period of time over which the offence took place

- Time that has elapsed since the offence took place. A person may be considered as fit and proper if they have completed their sentence and not re-offended in the last seven years, unless the offence is of one of the listed categories
- Extent to which, if at all, others suffered as a result of the wrongdoing
- Likely level of culpability of the applicant
- The level of the applicant's contrition and, if appropriate, rehabilitation since the offence
- Likelihood of the applicant re-offending

## **5. Health Factors**

The Board will, from time to time, be required to make determinations regarding fitness to practice on the grounds of medical or psychiatric conditions. It has a responsibility to ensure that all necessary advice and assessment is sought. Provisions in the act ensure the rights of individuals are protected under such circumstances. The Board will consider and view each situation on a case by case basis.

## **6. Consultation and Specialist Advice**

The Board will consult and seek specialist advice on any matter pertaining to the 'fit and proper person' status of an applicant or registered social worker in circumstances when this may be in doubt.

## **7. s47 (1) Views of a 'Reasonable Person'**

In considering information and resources available to the Board regarding current trends or precedents, the Board will consult, from time to time, with key stakeholders. This will include the profession, public, consumers, ethnic and cultural groups, other professional groups and Parliament, to ensure its 'fit and proper person' considerations are in keeping with acceptable and reasonable expectations, of the time, for registered social workers.