



**Social Workers
Registration Board**

Kāhui Whakamana Tauwhiro

ENTITLEMENT TO REGISTRATION

FIT AND PROPER PERSON

POLICY STATEMENT

Approved: August 2009
For review: August 2011

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 M ori; 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.

The Board contributes, both nationally and internationally, to the ongoing professional discussion as to what constitutes a fit and proper person. The Board considers the current 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.

Legislative Context:

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.

Section 47 (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. Policy Requirements

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 purpose of this paper is to outline the principles, responsibilities and processes associated with the fit and proper person requirements and give some guidance towards considerations on what characteristics could preclude a person from entitlement to registration.

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 be guided by the Code of Conduct and observe the following key principles when considering fit and proper person requirements:

- Adherence to principles of human rights and social justice;
- Ethical decision making,
- Cultural responsiveness and valuing of difference
- Objective, non-prejudicial and evidence-based decision making

4. Clarification of Responsibilities

- It is the responsibility of the Board to undertake a Police check on all applicants for registration.
- It is the responsibility of the applicant to demonstrate that he/she is a fit and proper person to be registered.
- 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
- The applicant may provide good character requirements by an appropriate form of attestation.
- That accumulated determinations may become case law for the purposes of the Board and the Disciplinary Tribunal.
- That specialist professional, cultural, and/or clinical expertise and advice will be sought by the Board 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.

5. Information Required by the Board to Determine 'Good Character' Requirements

- A request for information regarding previous criminal convictions punishable by imprisonment of three months or longer and any protection, non-molestation, non-violence, or trespass orders taken out against the applicant.
- A requirement that non-New Zealand citizens or residents provide a police certificate from their previous country of residence or any country in which they have been resident for one year in the last ten, whether on one or more visits. Information on how to access this process is available on the New Zealand Immigration Service website.
- A requirement that New Zealand citizens or residents provide a New Zealand police certificate.
- A request for information or any refusal or suspension by either a registration/licensing authority or a professional membership organization.
- Provision of references from the last two employers/contract providers; at least one social work supervisor and at least one social work colleague.

6. Points at which 'Fit and Proper Person' Determinations are Most Likely to be made

- 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.

7. Offences

The Board considers that conviction for offences of the nature listed below would 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 or persons
- Fraud or dishonesty
- 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 assessing 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
- Whether the applicant has completed their sentence and demonstrated exemplary conduct and not re-offended in the last seven years
- 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

The Board may take account of conduct that indicates non criminal breaches of the law constituting serious and intentional ethical malpractice and moral turpitude and is considered contrary to community standards

8. Other considerations

The Board will, from time to time, be required to make determinations regarding fitness to practice on the grounds of physical, mental or social 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.

9. 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.

10. S47 (1) Views of a 'Reasonable Person'

In considering information and resources available to the Board regarding current trends or precedents, the Board will continue to 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.

The Disciplinary Tribunal continues to provide a perspective and provide possible 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, also serve to inform the Board and the Tribunal.