
An Aotearoa primer on 'fit and proper' - School version

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Abstract

The profession of social work has seen many changes in Aotearoa New Zealand over the past 50 years. One of the most significant events has been the establishment of a Social Workers Registration Board (SWRB) and the subsequent enactment of the Social Workers Registration Act of 2003. This Act has attempted to protect the public through the registration of social workers meeting the criteria of 'fit and proper' to practise social work. While the debate on the responsibility of schools of social work to graduate ethical social workers is not new, the 'fit and proper' criteria have given renewed incentive for educators and other social work bodies to revisit this issue. This paper looks at various facets of this issue in relation to admission and graduation of social work students in Aotearoa New Zealand.

Introduction

These are exciting times for social work education in Aotearoa New Zealand. The introduction of registration through the Social Workers Registration Act has created many challenges and opportunities for schools of social work.

One of the areas of the Act that has been particularly contentious is the expectation of 'fit and proper' status for social workers. The Act specifies various criteria, which are necessary for entitlement to register as a social worker in Aotearoa New Zealand – one of those being 'that he or she is a fit and proper person to practise social work' (SWRB, 2004: 3). How the 'fit and proper' criteria for graduating students are eventually introduced into university calendars and regulations remains to be seen. This article aims to address the issues related to 'fit and proper' status in Aotearoa New Zealand by offering a broad overview of the context in which these discussions take place, outlining the aspects core to screening, for 'fit and proper' and finally highlighting some of the issues present when considering 'fit and proper' status of students by schools of social work.

The context of 'fit and proper' discussions

The Code of Conduct accepted by the SWRB outlines that social workers are expected to 'uphold high standards of personal conduct and act with integrity' (SWRB, 2005: 5). The Social Workers Registration Act outlines the criteria for 'fit and proper' in section 47(2)

where it states that the grounds for finding that an applicant is not a fit and proper person to practise social work include:

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

Section 82(1) states that an adverse 'fit and proper' determination may be found if a person has been guilty of conduct that:

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

The Social Workers Registration Act states in section 47(1) that not meeting the fitness to practice requirement, implies finding 'that there are grounds on which a reasonable person would conclude that the subject is not a fit and proper person to practise social work'. Many believe that these terms are subjective and ambiguous. While the terms are open to interpretation, the Social Workers Registration Board claims that experience over time in dealing with complaints will help set precedents that will begin to clarify our understanding of the meanings and scope of the criteria (SWRB, 2004).

Although the Act is new to Aotearoa New Zealand, the issues educators face regarding 'fit and proper' requirements are not. These issues have also been part of many other countries' social work educator debates (refer Cobb, 1994; Scott and Zeiger, 2000; Magen and Emerman, 2000; Barlow and Coleman, 2003 and Clark, 2006). To this end, councils of education in Canada, the UK and USA have all mandated schools of social work to put policies and procedures in place concerning the management of academic and non-academic conduct of students. While it is a relatively straightforward process to exit students from a social work programme based on failure to meet academic (marks) requirements, issues which fall in the realm of ethics, health, or poor judgement (which are usually seen as non-academic) are much more complex.

The most important consideration regarding 'fit and proper' remains the eventual liability to clients. A bold statement by Saunders (1993: 231), 'An unethical student is likely to be an unethical practitioner' encourages social work educators to consider the importance of screening out students from the profession of social work who may not be of good character or who may later place others at risk. Issues such as plagiarism or cheating within academic programmes may be warning signs of future 'dodgy' practice. It is important to assess a student's conduct and character not only with regards to his or her ability to perform satisfactorily in the programme, but more importantly with regards to his or her future practice behaviour. However, in the context of a shifting academic environment, there is greater awareness regarding the risks of litigation if enrolments are terminated. The nature of the student population is also changing. International students are increasing in numbers and innovative modes of delivery have also given new student populations, such as prisoners and other closed communities, access to social work education (Crisp, 2006). Koerin and Miller (1995) outline other reasons why there has been a move towards social work programmes developing 'fit and proper' policies. These include: faculty concerns

regarding student behaviour; pressures from field placement agencies who may have felt an overburdening responsibility for screening students out of the programme; pressure from the university regarding liability issues and university concerns about student rights and due process. These issues raise the question as to who is in fact responsible for ensuring the 'fit and proper' status of social workers.

It seems at this time that the major stakeholders in determining 'fit and proper' status are the SWRB, the Aotearoa New Zealand Association of Social Workers (ANZASW), competency assessment panels, educators from schools of social work and employers of social workers. There is currently no clarity in regards to who is primarily responsible to 'sign off' on 'fit and proper' conduct and it is unclear how these bodies are to work together. It would appear that in other professions in Aotearoa New Zealand such as nursing, psychology and education, educators play a major part in this process. For instance, heads of schools for each nursing programme in Aotearoa New Zealand must sign off that a graduating student is 'fit and proper and of good character'. A student who is not signed off will be subject to an investigation by the pre-registration committee of the Nursing Council of New Zealand (Drake and Stokes, 2004). Similarly, in Australia, the acquisition of a Bachelor of Social Work degree (or its equivalent) from an accredited programme provides graduates with automatic eligibility for membership in the Australian Association of Social Workers, '...the responsibility for protecting the integrity of the profession has therefore fallen to educational institutions' (Ryan, Habibis and Craft, 1997: 5).

Without mandatory registration (as is the case with social work in Aotearoa New Zealand at this time), the responsibility appears to remain shared, and yet unclear. 'Many agency personnel involved in the field education process assume that the university is referring students after having done initial gatekeeping. At the very least this assumption needs clarifying.' (Magen and Emerman, 2000: 404). Given the lack of clarity in regards 'who does what?', let us examine what options exist for schools of social work in this area.

Screening for fit and proper

Magen and Emerman assert that 'gatekeeping is a legitimate and expected function of education programmes' (Magen and Emerman, 2000: 403). This has not only been the case regarding academic screening. 'Several court cases have affirmed the right of professional education programmes to establish explicit non-academic admission criteria' (Magen and Emerman, 2000: 403). Gillis and Lewis (2004: 393) quote Cobb and Jordan (1989) and various statutes in US law which support the idea that the 'expectation of students having the necessary interpersonal skills to successfully interact with clients, staff, faculty, and peers as an academic requirement is supported by landmark legal decisions.' There are many different ways we can do this. It seems that it is not only about how we screen students in (encouraging diversity within programmes), but also about how we screen students out.

Admission screening / Who gets in?

Social work programmes in Aotearoa New Zealand employ various methods to try to ensure that the students coming into their programmes are going to be suitable for the profession of social work. These can include: a review of students' previous grades; face to face interviews; police checks; essays; personal statements; references; employment records; voluntary work experience; literacy tests and health questionnaires. There appears to be a significant

variety of methods used to screen between schools, and even between programmes within the same school, i.e. BSW vs. MSW (applied).

Ryan et al. (1997: 8) report on a survey of schools of social work in Australia. They describe the methods used in assessing criteria for admission to BSW programmes. These include: Formal academic records (93.3%); employment records (66.7%); voluntary work (66.7%); written essays (46.7%); references (46.7%); literacy tests (33.3%); interviews (26.7%); and other (13.3%). The results of this screening included that 63% of the respondents denied admission to 50% or more of the applicants, while 13% denied admission to 75% of all applicants. The most common, and only listed reason, for not admitting the candidates screened, was for poor previous academic achievement (Ryan et al., 1997: 9). So while various methods are used for screening purposes, refusal to programmes seems to relate only to poor academic history.

The use of screening for criminal offences and police checks is varied. The Central Council for Education and Training in Social Work in the UK (1989: 23) has emphasised that programmes need to have applicants sign a declaration indicating whether they have been convicted of any offence (Perry, 2004: 998), while in Scotland, enhanced disclosure details are required for all social workers (Cree, 2006). 'Enhanced disclosure' is to be obtained wherever an individual is working with children or adults at risk (SCRO, 2005). This includes convictions held on central records and details both spent and unspent convictions. This means that even minor convictions, perhaps dating from many years ago, are included in the disclosure. In addition, enhanced disclosures may contain non-conviction information which a chief officer or chief constable may choose to disclose if he or she believes it to be relevant to the position in question (SCRO, 2005). In Aotearoa New Zealand, at some social work tertiary institutions, regulations include that Bachelor graduates must match the professional and personal criteria of eligibility for both registration and/or membership in their respective professional bodies (which include some statement on criminal convictions). Some schools do a police check at admission while others do not. Only some schools of nursing in Aotearoa New Zealand require students to complete health questionnaires, while all require their students to declare criminal convictions in some form. It is interesting to note though that they do not necessarily require police checks or other corroborating evidence (Drake and Stokes, 2004: 18).

There is no evidence in the Aotearoa New Zealand literature relating to problems experienced by schools of social work with relation to student admission. The problems of nursing have, however, been documented by Drake and Stokes (2004: 18). The seven main problems relating to programme admissions identified in their study include: substance abuse issues; physical disabilities; mental health issues; non-disclosure of information; failure to meet academic entry levels; challenge to admission refusal, and the extent of 'assessment of prior learning' awarded. Screening for these issues at admission is generally done by means of a self-reporting instrument.

Screening during the programme / Who stays in?

In a study on gatekeeping in BSW programmes in the USA (Gibbs, 1994), it is reported that 95% of respondent schools of social work screened students before starting their placements. While many believe that the field placement is a time where a good proportion of gatekeeping occurs, only a very small number (80% of respondent schools in the study reported fewer

than five students failing a practicum) are screened out in this way. In a survey conducted by Gillis and Lewis (2004) with American field educators, it is reported that 34% of field educators surveyed had had students with psychiatric problems in placement. Thirteen percent reported that a student's placement had been terminated for a non-academic reason, and many expressed concern regarding the quality of communication between field instructors and the academic programme.

The main groupings of problems occurring during Aotearoa New Zealand nursing programmes' progression as reported by Drake and Stokes (2004: 19), include: exacerbation of mental illness; failure to maintain patient confidentiality; incompetence; document fabrication; fraudulent behaviour; language/communication issues; failure to maintain professional boundaries; physical disability; alcohol/drug issues; knowledge deficit; distribution of objectionable material; failure to recognise/report a life threatening event; negligence, and contributing to client injury.

Some schools of social work in Aotearoa New Zealand have pathways in place for students experiencing difficulties during their course of study, while others are in the process of having these formalised within university regulations and calendars. As has been discussed, these practices are in no way consistent across schools of social work in Aotearoa New Zealand.

Although there is little consistency with regards policies and procedures, it is clear in our experience that screening students enrolled in social work programmes for 'fit and proper' does occur. Educators sometimes have the responsibility of terminating a student's enrolment based on an assessment that the particular person will not adhere to certain standards as now captured in the Social Worker Registration Act (SWRB, 2004) of 'adequately performing the functions of a social worker satisfactorily,' (p.3). The next challenge then, is how to effectively escort students out of the programme when this is indicated.

Termination of enrolment / Who goes out?

Terminating a student for non-academic reasons is a difficult and often painful process for all involved. The most common causes for dismissal in social work programmes according to Koerin and Miller (1995), include difficulties in such areas as: ethics, mental health/substance abuse, field performance, illegal activities and disruptive classroom behaviours. Reasons to pursue termination for non-academic reasons as identified by Ryan et al (1997), include nonconformity to social work values, inability to respect human diversity, emotional and mental problems, personal values inconsistent with social work and lack of commitment to the helping role.

Identifying issues of concern warranting termination of enrolment and successfully escorting students out of the programme appear to be two distinctly different processes. According to Drake and Stokes (2004: 19) '...more than half the schools...reported that (nursing) students had continued, or were currently continuing on programmes although they were judged by registered nurses to pose unacceptable threats to public safety'. Some schools reported, '...each year students whom they deemed unfit for the nursing profession completed programmes on grounds of procedural justice within education provider organisations' (ibid). Most social work educators are aware of students who have graduated from their social work programmes who probably should not have.

Drake and Stokes (2004: 10) identified four factors contributing to the difficulty in terminating students' enrolment for non-academic reasons. These include: the inability to define lack of suitability for the profession; difficulty to formulate concrete criteria for non-academic reasons; lack of institutional support; and poorly developed institutional policies. Concerns regarding liability and risk management are core to this and are certainly shared by academics internationally. Social work educators often have conflicting perspectives on protecting the rights of students, faculty and clients (Cobb, 1994). These conflicting perspectives are also identified by Barlow and Coleman (2003) and referred to as a tension between 'town and gown'.

Lockhart et al. 1993, cited in Gibbs (1994), found that social work educators and field educators have difficulty in separating their educator role from a clinical role during gatekeeping functions and this is especially true during attempts to terminate a student's enrolment.

If educators stay strictly in their role as gatekeepers and thus negate their interpersonal connection to the student and their commitment to the student's development, it becomes easy to dismiss the emotional impact their actions have on individual students and to deny their role in facilitating a student's success. On the other hand, if they divorce themselves from their commitment to society and focus primarily on their interpersonal connection to students, they may become negligent in their function as gatekeepers.' (Gibbs and Macy, 2000: 10).

It is a difficult balancing act. Ultimately, the authors of this paper believe that our 'clients' remain those who are served by our graduates. We are to a degree responsible for the practice of our students. 'We create difficulties for ourselves and are unable to perform the necessary gatekeeping when we view students as our clients.' (Royse, 2000: 30).

Implications for schools of social work

In light of the above discussion, it seems as though there are different areas of consideration for schools of social work with regards to the 'fit and proper' requirements of students. This includes, but is not limited to, the implementation of legal and process issues and protocols at admission, during enrolment and in the termination of enrolment. Although it is not the purpose of this article to explore any of these issues in depth, the following points may be helpful to educators in Aotearoa New Zealand when considering ways forward in this area.

Legal and process issues

According to Magen and Emerman (2000: 403), a social work programme which admits a student with a felony conviction engages in deception by training the individual for a professional practice role they may be barred from undertaking. Implied in this statement is that training institutions should have admission selection in place to ensure that students who will be potentially barred from entering the profession, are also barred from entering the programme. The American Council for Social Work Education 1994 standards state that social work education programmes are compelled to clearly articulate requirements for admission (Magen and Emerman, 2000: 403). Drake and Stokes (2004: 200) quote section 224 (13) of the Education Act which reiterates:

Nothing ... shall prevent a Council of an institution from refusing to permit, or from cancelling, the enrolment of a person as a student of the institution, or in a particular course of study or training at the institution, on the grounds that (inter alia) the person is not of good character.

Scott and Zeiger also discuss termination of enrolment as a process that should be pre-empted at the stage of admission by suggesting that:

The application includes a disclosure statement and informs the applicant that, when applicable, she or he will be asked to allow faculty to gather certain kinds of personal information from the court system, law enforcement officers, or counsellors as part of planning for entry into field work if admitted' (Scott and Zeiger, 2000: 409).

In response to this stance, Magen and Emerman (2000: 413) advocate flexibility: 'Having a policy does not preclude case-by-case exceptions to that policy'. Pelech, Stalker, Regehr, and Jacobs (1999: 215) also encourage schools to provide additional supports to students at risk for problems, rather than arbitrarily rejecting applicants meeting these criteria. These authors (*ibid*) add that 'the relative value that each school places upon specific applicant characteristics, skills, and experience must be consistent with the supports and demands of the programme of studies offered by the school'.

As discussed previously, schools of social work are often reliant on fieldwork educators to help in the determination of a student's ability to practise safely. It is important that field instructors have sufficient information, support and education to perform this role (Koerin and Miller, 1995). The characterisation of student problems in the field setting as academic or non-academic is also crucial for determining the legal rights and responsibilities of all parties involved. It has been affirmed that, '...the Court clearly treated problems that arose in the clinical rotations as academic issues, that, as such, required less due process...' (Wayne, 2004: 408). Similarly, Cobb (1994) states: 'Whether the dismissal is academic or non-academic, due process procedures have been the focus of the court and will continue to be the deciding point on the appropriateness of termination proceedings'.

It appears as though the decision taken about a student's 'fit and proper' status is less important than the process followed to get to that decision: 'the amount of due process afforded a student prior to dismissal will often be the central legal issue in a lawsuit against a school,' (Wayne, 2004: 404). Social work education programmes need not prove that they have made the correct decision, only that the process used to make the decision was fair and reasonable: 'Allowing students to feel heard, while also maintaining professional standards, can diffuse a situation and minimise the likelihood of a lawsuit,' (Wayne, 2004: 413).

Protocol issues

Gillis and Lewis (2004) discuss the need for thorough and consistent protocols to guide field faculty in resolving these kinds of situations. They propose that social work programmes have a clear understanding of the policies needed for the protection of all involved and to this end that they should designate a key person to be responsible for drafting such policies, orienting other staff to them, and overseeing a problematic situation to its point of resolution. Scott and Zeiger (2000: 406) advise along the same lines, indicating, 'programmes must develop not only policies, but also well-articulated protocols that provide ongoing scrutiny, advising, monitoring and evaluation of each and every student'. They go on to say that faculties should have ongoing monitoring of students, give early warning and have procedures in place to evaluate progress and give feedback to students.

Forming coalitions with other departments within the university or within the practice community can be beneficial when formulating policy or seeking support from adminis-

tration. Koerin and Miller (1995) suggest that social work staff determine limitations to termination of enrolment and consult with their legal departments on draft policies to ensure that they meet due process standards. It is important for social work faculty to engage collectively on developing a philosophy in regards gatekeeping within their programmes and to develop mechanisms for review of policies and procedures.

Accreditation standards for schools of social work in the USA require that programmes have policies and practices in place for termination of students for academic or non-academic reasons. In 1994, The American Council on Social Work Education (CSWE) made guidelines available to schools of social work. The principles underpinning these guidelines included:

- Be broad and inclusive in identifying the framework for non-academic termination
- Use behaviourally specific language which links behaviour to performance expectations reflected as components of the broader inclusive framework. Avoid labelling and general categorisations in identifying criteria.
- Ensure that the criteria reflect the professional behaviours in the NASW Code of Ethics.
- Ensure that due process procedures are in place and are written and disseminated to programme constituents.
- Ensure that criteria, policies and procedures are compatible with existing civil rights laws (CSWE, 1994: 435-436).

These guidelines have not been updated. The CSWE now suggests that social work programmes consult with their university legal departments in regards policy formation. This seems important in Aotearoa New Zealand as social work programmes become increasingly aware of the sometimes conflicting demands in regards to safety of clients, litigiousness and students' rights.

Conclusion

This article has attempted to provide an overview of the issues surrounding the 'fit and proper' requirement for social workers from the perspective of the education sector. Ideas around responsibilities, screening, policies and protocol have been presented from both local and international perspectives. 'Fit and proper' processes and responsibilities will be ongoing 'works in progress' as the climate and conditions of professional registration continue to evolve here. The dialogue between the stakeholders is, however, long overdue.

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