A contemporary framework for the accountability of social workers practice

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Abstract

Through internationally accepted ethical standards and principles the social work profession is committed to a contemporary accountability framework that sets standards of practice to facilitate positive outcomes for clients and reduce the risk of harm. This commitment is related to corresponding national codes of ethics or statements of adherence to the international standard. However, a code of ethics forms only one part of the regulatory process. The demonstration of contemporary knowledge, skills, experience and competence to practice can only be effectively supported through a framework that includes registration of social workers. The international experience is mixed and is developing. The introduction of The Social Workers Registration Act 2003 heralds a very important landmark for New Zealand, but may also provide a new model for consideration elsewhere.

The Hon Steve Maharey, Minister, my colleague Robyn Corrigan President ANZASW, Fiona Robert-son, Treasurer IFSW, Buster Curson, former Member at Large IFSW, Merv Hancock, Colin Hicks, Beverley Keall, dear colleagues and friends all. May I begin by acknowledging the traditional owners of this land. I bring to everyone here warm greetings from the body of international social workers, some 456,000 individuals linked to the IFSW.

It is both a great honour and a pleasure to be invited by you, Minister, to deliver this address on such an important day for social work in New Zealand. It is a very significant occasion for social work but even more significant for the people who will use the services of New Zealand social workers in the future.

I have been a campaigner for the introduction of registration for social workers for a very long time. My reasons are plain and simple. Our work typically brings us into contact with some of the most disadvantaged, marginalised and vulnerable people in our community. Therefore we must be ready, willing and able to demonstrate that our skills, knowledge and competence to practise are of the highest order and we must be accountable as a profession for any failure on our part to deliver that service. Further there must be an effective accountability framework and a method of implementation.

In my 28 years of social work I have seen outstanding practice and its polar opposite. The vast majority of practitioners provide an excellent service. A percentage does not, and they are an important focus of concern.

It is perhaps not surprising for me to observe that in most other areas of professional and occupational endeavour some form of effective and accessible redress is available to clients and consumers who believe they have been ‘injured or aggrieved’ by poor practice. Why not social
work? Given the vulnerability of our client group a strong and effective regulatory framework is of particular importance.

However I know that the issue of providing that regulatory framework is not simple. The path to this moment in New Zealand, as elsewhere, has no doubt been marked by years of debate and lobbying. Registration of social work practice is a controversial topic that has challenged the profession and governments alike across the globe.

I think the situation is well summed up by social worker and lawyer Phillip Swain:

…the public has an understandable scepticism about the self regulatory efforts of professions who look to them-selves alone to determine what is and what is not acceptable profes-sional behaviour … Further some would argue that the notion of professionalism is itself elitist. However, in the absence of control of practice those dissatisfied or harmed by unprofessional behaviour may have no recourse save that provided by the courts – an expensive, time consuming and frequently unsatisfactory alter-native.2

The need for accountability - what can go wrong?

One key element required for registration of any profession in my country, Australia, is whether or not it uses techniques that may endanger life. While the term techniques is odd in the context of social work, risks to clients nevertheless exist. They include mental, emotional and financial risks, sometimes of serious nature.

Let me start with the example of Social Work Assessment, a foundation tool of any social worker. This assessment has the capacity to lead to significant change in the lives of clients and sometimes others close to them. The most often cited is the assessment of a child at risk where failure to conduct an appropriate assessment could lead to further harm and, in some cases, to death.

Clinical social work and counselling is based on a funda-mental trust relationship between the client and practitioner. The potential for abuse is ever present. Perhaps the best known is the failure to respect professional boundaries, in particular by commencing a relationship with a client, or with a former client without the benefit of distance from the therapeutic relationship.

The social worker who does not recognise the limits of their expertise can place the individual and community at risk. This could result, for example, in a failure to refer service users for medical and psychiatric care, particularly when the person is threatening harm to themselves or others.

The trend to outsourcing of social welfare and health programs can, and in some places has, caused gradual erosion of traditional standards and monitoring structures (eg. supervision). This in turn can lead to a greater risk that practi-tioners may not be maintaining their knowledge base, using or have access to supervision or be may working with untenable caseloads. The outcome of such a situation can indeed be very harmful.

Social workers, like other members of the community, can have personal experience of some of the conditions and issues that they work with, such as child sexual abuse, domestic violence, fostering etc. These are issues which the worker must acknowledge through their own practice but may not be the cause for greater scrutiny leading to a question over their ability to practice. A proportion will experience some form of mental illness, ranging from a treatable depression to a florid psychosis. Depending on its nature and seriousness, mental illness may impact upon the individual's capacity to practice - either for a short or longer period of time. Others may have committed offences which are serious in nature and must be taken into account for example misappro-priation of client monies. In such circumstances the practitioner may pose a serious risk to clients and may need to have their rights to practise reviewed and removed.

Thus there are real risks that demand an effective framework to make social workers accountable for their practice.

Effective accountability frameworks

If we accept the need for a framework of professional accountability what are its key elements?
The definition of social work, adopted by both the IFSW and The International Association of Schools of Social Work (IASSW) is the starting point. It states:

The social work profession promotes social change, problem solving in human relationships and the empowerment and liberation of people to enhance well being. Utilising theories of human behaviour and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work.¹

I draw your attention, particularly to the last sentence which affirms social work’s universal commitment to the principles of social justice and human rights. The definition is the foundation stone for our professional standards. However it is the code of conduct or ethics which elaborates upon the definition and explains the implications of the definition for practice. The IFSW has developed and published ‘The Ethics of Social Work: Principles and Standards’ which acts as a guide for the development or revision of codes of ethics for member organisations. This document is presently the subject of review and will be discussed at our General Meeting in September 2004. The code adopted by the ANZASW is consistent with the IFSW principles. Further, New Zealand is very actively involved in the review process through Robyn Corrigan who, together with Professor Richard Hugman of Australia, represent the Asia and Pacific Region on our Permanent Committee on Ethical Issues.

But what happens when there is a breach of standards? Codes of conduct and ethics need to be given meaning, so that a breach has consequences. It is necessary to ask what avenues of redress exist and, importantly, will they be used?

A 1995 review of material from the National Association of Social Workers USA (NASW) suggests that clients do use complaints mechanisms where they exist. Alarmingly the 30-year retrospective review of complaints against social workers conducted by NASW revealed that, of social workers breaching the code, 29.2% were guilty of sexual activity with clients. Other sections of the code frequently violated included;

• conflict of interest – 16.9%
• precipitous withdrawal of service without due consideration of the impact on the client – 16.7%
• exploitation for professional gain – 16.4%
• fraud or misrepresentation – 14.3%²

It must be noted that this study covered 1,000 cases adjudicated over a 30-year period for an organisation that today has 150,000 members. In that context the numbers are mercifully small. However the seriousness of the breaches is evident. Such behaviour is never acceptable. It is the reason that national professional social work organisations have codes in place and a process for adjudicating complaints and imposing sanctions for unethical practice. But in many places such sanctions can only be applied to those who are members of the professional body and, where such membership is voluntary, a significant number of practitioners can escape the consequences of a breach of fundamental standards of practice. Indeed it is not unknown for members to resign in order to avoid the review process.

As well as dealing with breaches of practice standards, professional associations require their members to maintain their professional skill and knowledge levels through continuing professional education programs. No such requirement exists for social workers who are not members.

Speaking in Korea three years ago I noted:

Regulation of social work is a means to an end. That end is the ability to ensure, by licence, appropriate standards of social work and to hold qualified social workers accountable for their practice. It is about ensuring that we are publicly accountable and that our practice is recognised and respected for that. It is not, in the first or even second instance, about the perceived prestige of the profession or restricting ‘trade’. These two issues are the most frequently raised in opposition to moves to register social work practice.³

Wherever we are and whenever we address the issue of codes of ethics, registration, or standards of social work education and practice, we must make it abundantly clear that we do so because we have a fundamental moral and professional responsibility to ensure that we do no harm – in fact that to ensure that what we do has positive consequences.
A brief international review

The vehicles used to ensure social work standards are by no means consistent or necessarily universally effective. An abridged international tour reveals that countries such as Republic of Ireland, Canada, Hong Kong, Finland, United Kingdom, parts of the USA and Zimbabwe have some form of registration in place. Many other countries are in the process of revisiting this question with their respective governments. A quick review of three countries with a form of registration provides an appreciation of the differing systems.

Republic of Ireland

The Irish Government is moving to introduce statutory regulation for all health professionals including social workers. Importantly the Act will cover members of the profession, whether or not they work in the health field.

It is of interest to note that the Irish Government paper states:

Voluntary codes of registration, while very useful in themselves, cannot by definition offer the legal protection afforded by a system of statutory regulation.

Canada

Regulation of the profession in Canada is managed at the provincial level. In each province the method of operation is slightly different. In seven of the ten Canadian provinces regulation is managed by the local social work association. In the remaining three provinces a separate body (a board or college) manages the process. While legislation exists in each province the lack of consistency is not, in my opinion, desirable.

United Kingdom

The history of the regulation of social work in the United Kingdom is both long and complex. However the UK Government has set in place statutory regulation of social work practice through the establishment of General Social Care Councils. The GCC’s require the statutory regulation of all practitioners in the field of social care in England Wales, Scotland and Northern Ireland.

Social Workers Registration Act 2003 New Zealand

What you are bringing into effect here today is an alternative and hopefully much more accessible path of redress for poor practice and an effective medium for social workers to prove their commitment to quality practice through demonstrated contemporary knowledge and competence to practise. These goals are very clearly articulated in S3 of the Act. It is an impressive piece of legislation. I have read it and the history of its development with great interest, though I am not sure that I have yet absorbed all it has to offer.

I note the debate that preceded the passage of this Act. I see that the preferred position of the New Zealand Association was mandatory legislation. That would be a view shared by your colleagues throughout the world. I also see that, in the spirit of negotiation, or pragmatic compromise you have accepted a voluntary process. I note the intention of the Government, through this legislation, to create a market force whereby the title ‘registered social worker’ and its consequent standards has a real advantage to social workers. I see that the impetus is to come from organisations, both government and non-government, altering policies to favour the employment of registered social workers over non registered social workers.

If the market approach is to operate effectively it is certainly the employers who must make it work. The clients of social work services are usually in a state of high crisis at the point of initial contact. Market analysis and selection of service providers are the last things on their mind, if indeed they know that there is some level of choice. For some there simply is no market – they have no choice at all. I repeat - our clients are among the most disadvantaged, vulnerable and
socially powerless members of our communities. Whether they are victims of abuse, children at risk, the elderly, people with disabilities or mental illness, refugees, or facing divorce, separa-tion, illness or death they will not usually be in a position to;
• make necessary enquiries about the qualifications and training of the practitioner,
• assess the standard or appro-priateness of the qualification,
• identify whether the person is a member of a professional body and subject to an ethical code of practice.7
The Australian Association of Social Workers, in its paper on registration notes:
Professional services are inher-ently difficult for actual and potential users to evaluate, either before or after use. … There are those that argue that without appropriate regulation consumers of professional services would be placed at a serious disadvantage by their limited ability to:
• Assess the need for profes-sional service or the type and quality of the service required,
• Distinguish the competent from the incompetent service provider,
• Assess the quality of the services rendered or whether they were excessive or inadequate in relation to their needs.

By adopting your approach the responsibility for quality assessment of social workers has been firmly placed in the court of service providers. This, of course, raises important issues about the standards of those service providers, and the existence of resources that permit them to put appropriate standards into effect.

I will be a very interested observer of this process as it unfolds and I most sincerely hope that it has the desired effect that you seek Minister.

Because if this model proves to be as successful as all here today hope, it may well pave the way for other nations to consider this approach which is a point on the continuum between self regulation and mandatory registration. Governments in many countries are increasingly wary of total regulation but are also being asked to deal with the failure of a completely self regulating model. One could also hope that the bi-partisan approach which was evident at the passing of this legislation may be found elsewhere. It is my understanding that those who voted against the Bill did so not because they opposed the notion of registration, but rather because they supported a mandatory approach.

Here in New Zealand you have also been very successful in the introduction of competency based assessment – a move which has proved controversial in other settings. The Association is to be congratulated on its commitment to refine the competencies process to ensure that it reflects the necessary balance between knowledge base and skills. The ANZASW provides regular quality continuing professional education opportunities a most informative newsletter and journal. It is very active by any standards yet still it has a membership well below the self reported 10,000 social workers in New Zealand. You are not alone in facing the challenge of increasing the levels of membership and thereby exposure of social workers to measures that support professional standards.

**Conclusion**

The challenges at all levels of our community (local, national and international) are complex. They require sensitive handling and demand the most contemporary knowledge base and skills from social workers and their colleagues in allied professions. It is essential that there be an effective vehicle to ensure that social workers maintain their knowledge and skill base, can demonstrate their competence and are prepared to be accountable for their practice. The community must feel confident that it can expect no less from social workers. For the comparatively small percentage of practitioners who do not meet the required standards of practice an accessible, just form of redress should be available.

You are bringing into effect such a vehicle today and I conclude by reiterating my interest in its implementation and future development and congratulate all the architects of this important piece of legislation.


NASW News April 1995.


Australian Association of Social Workers submission on registration prepared by I. Dodds, 2002.