Risk to the public and unintended consequences of excluding Social Workers from the National Registration Accreditation Scheme

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Introduction

Social work is a profession that provides support and services to individuals and families who may be experiencing challenging circumstances and are therefore vulnerable for a number of reasons. This includes people in acute and chronic health care, aged care, mental health services, Indigenous health, disability services and addiction support as well as children in out-of-home care, refugees and individuals affected by natural disasters.

Social Workers deliver interventions that impact on all aspects of a client's life including their physical, psychological, social and economic wellbeing. They are very prominent during this time of suffering from the many natural disasters such as bushfires and floods this country has experienced recently.

The capacity for serious harm is therefore compounded by the nature and circumstances of the client group and the range of interventions delivered by social workers.

An Unregistered Social Work Profession poses a Serious Risk of Harm to the Public

While Social Workers are the largest allied health profession in the public health system[1], the majority of Social Workers practice in environments where serious misconduct cannot be adequately addressed. Even Social Workers employed in the public system are free to move to a new jurisdiction and continue to practice without detection. Current institutional arrangements are such that the minority of Social Workers who cause serious harm can practise without appropriate penalty or sanction.

This document provides an updated overview of the risks of non-registration outlined in the Australian Association of Social Workers (*AASW) Submission to Health Ministers on the National Regulation of the Social Work Profession* and concludes with the recommendation that the social work profession is included as a registered health profession.

Workforce Overview

In 2011, the *Department of Education, Employment and Workforce Relations (DEEWR)*, reported that 22,200 persons were employed as 'Social Workers'[2]. Social Workers are tertiary qualified graduates from a course that required to be nationally accredited. As of January 2013, 6882 Social Workers are members of the AASW. Social Workers constitute the largest allied health profession in public health settings. In addition to public health services, Social Workers are employed in community health and welfare services, prisons, schools, educational institutions, government departments and increasingly in private practice. As of 2013, there are 1400 accredited Mental Health Social Workers, many of whom practice in private settings. The AASW conservatively estimates that Social Workers have contact with approximately **500,000** people every year in direct practice across public, private and community settings.[3]

[1] In 2011, for example, Queensland Health employed 746 full-time equivalent social workers compared to 718 physiotherapists, 667 occupational therapists, 414 psychologists and 11 neuropsychologists.
[2] http://joboutlook.gov.au/pages/occupation.aspx?search=alpha&tab=overview&cluster=&code=2725
[3] This is based on an estimate of 12,000 social workers working in direct service delivery. It does not account for social workers in non-direct service.

Scope of Practice

In the broadest terms, social work aims to support clients to achieve the best possible levels of health and wellbeing. Social Workers operate according to the World Health Organisation definition of health which states that "health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity".

The tasks of social work include:

- Interpersonal practise such as casework, counselling and clinical intervention;
- Community development;
- Advocacy and social action;
- Education and research.

Social Workers routinely work with individuals at risk including women and children escaping family violence, victims of sexual assault, people suffering mental illness, survivors of torture and war and people with severe disabilities. The vulnerability of the client population is significant in terms of risk assessment as malpractice has the capacity to have profound and ongoing impacts on the lives of clients. This is demonstrated in the case studies below.

Risk of Serious Harm – an Overview

The risk of serious harm posed by social workers stems from:

- The behaviour of the Social Worker;
- The nature of the client group; and
- Current institutional arrangements.

The following discussion summarises the risks emerging from these three domains of practice.

The Behaviour of the Social Worker

Social work behaviour that poses a risk of serious harm to clients includes acts of omission and commission. Examples include Social Workers who:

- fail to recognise the limitations of their practice;
- fail to maintain professional boundaries;
- engage in sexual impropriety;
- misuse their influence in relation to clients to gain financial advantage;
- provide inappropriate treatment which may result in adverse client outcomes;
- practice under the influence of alcohol or unlawful drugs;
- engage in the inappropriate or unskilled use of therapeutic techniques.

Case Study 1: Trust Relationships open to Abuse

For 20 years a NSW social worker used his professional role and position of trust as a lure for young victims. During this time a number of allegations of improper sexual contact with children were made, but were never properly investigated.

When the social worker was confronted with the complaints he would resign from his position and begin work as a social worker with a new employer. During this time, his employers included the Department of Child Welfare as well as various hospitals and schools.

His crimes against children were not addressed until they were publicly broached during the Royal Commission into the NSW Police Force.

Wood Royal Commission into the NSW Police Force 1997: Volume IV, The Paedophile Inquiry

Risks to the public may also be exacerbated when Social Workers:

- are unqualified or incompetent;
- have a physical or mental disorder which affects their capacity to practice;
- have a criminal history, falsified identity or false qualification;
- place their own interests above those of their clients.

Given the failure to identify and address these risks that relate to the institutional arrangements surrounding social work practice, they are discussed in more detail below.

Risks associated with the Client Group

The social work client population is unique in that it consists almost entirely of people who are vulnerable in *multiple* ways. Disadvantage impacts on several aspects of a client's life including physical, psychological, social and economic health and wellbeing. This is significant in terms of risk assessment as the deleterious impact of the behaviours outlined above is likely to be greater among clients who do not have the means, support and capacity to take action in response to serious wrongdoing. Because of vulnerability clients of Social Workers are unlikely to voice complaints about misconduct. Registration will provide a safety net for clients to exercise their right to protection from professionals who do harm.
Social work often requires the establishment of long-term trust relationships with vulnerable people. It has long been established by research that significant harm results from situations when therapeutic and other 'power- imbalanced' relationships are abused.

The risks associated with Social Worker malpractice with vulnerable populations include:

- **the risk of suicide, self-harm or harm to others;**
- **exacerbation of existing mental health issues;**
- **trauma;**
- **reluctance to seek help or engage in services or supports; and**
- **family breakdown.**

Case Study 2: Unethical Practice, Poorly Managed

A 24-year old woman experiencing alcohol addiction and the impacts of childhood incest sought the services of a Social Worker who worked in a sexual assault unit of a public hospital.

It is alleged that the Social Worker began to describe her client as 'special', sessions increased to twice weekly, contact began outside of sessions, and then sexual contact began during and outside of sessions.

The client eventually disclosed this to the Unit Manager. The Unit Manager informed the Social Worker of the complaint. After that discussion the manager allegedly told the client that they had 'got confused'. The client lodged a complaint with the Health Department complaints unit and the AASW. The Health Department undertook a full investigation including obtaining case file notes and witness interviews.

As a result the Social Worker is no longer eligible for employment in the public health sector. But he is free to practice as a Social Worker elsewhere as neither the Health Department nor the AASW has the power to prevent him from doing so.

Boeckenhauer, C., Michael, L., Ormerod, N., & Wansbrough, A. (1998). Violating trust: professional sexual abuse, Sydney: Committee Against Health Professional and Clergy Abuse

Complaints Data

The AASW collects data on complaints received against its members. In 2012, the AASW received 74 complaints enquiries. The vast majority of these enquiries relate to Social Workers who are not members of the Association. Complainants are therefore referred to any other available complaints channels (if they exist). This may include state-based health care commissions, state government ombudsman or the employer. Of the seven complaints pursued through the AASW in 2012, six were subsequently dismissed and one resulted in two Social Workers undergoing penalties, including being made ineligible for membership.

Data from health commissions shows a very small proportion of complaints made against Social Workers. In 2012, for example the *Victorian Office of the Health Services Commissioner* reported only one complaint against a Social Worker[4]. However as the discussion regarding client population and institutional arrangements highlights, the AASW believes that the lack of capacity to complain and/ or access appropriate complaints channels is significant. Further, data on complaints against Social Workers in non-government settings is held by individual organisations and is not captured in a centralised manner.

In recognition of the limitations of available data, it is the intention of the AASW to undertake further research to quantify the scale of the issue in Australia.

Case Study 3: Inconsistencies in Practitioner Safeguards . . . Leading to Client Risk

A 32-year-old female client experiences significant distress during a marriage breakdown. She begins to drink to unsafe levels, to neglect her children and have suicidal thoughts. She is referred for case management. A team comprising a psychologist, a social worker, a nurse and a psychiatrist is appointed. One team member is selected to be care coordinator. A sexual relationship ensues with the care coordinator. Later, upon being rejected by the practitioner, she attempts suicide. When she is well again, she wants to make a complaint about how she was treated.

*If the care coordinator was a **Psychologist** ... the complaint process would be clearly articulated on the AHPRA website and the client could submit a complaint online. Since sexual misconduct is a notifiable offence, the matter would be investigated. A likely outcome would be the deregistration of the psychologist.*

*If the care coordinator was a **Social Worker** ... the client might find the AASW website and make a complaint. However, the Social Worker in question has chosen not to be a member of any professional association, let alone the AASW.*

Consequently, the AASW has no jurisdiction to investigate and the client has no viable alternative pathway for redress. The social worker continues to practice.

Risk and Institutional Arrangements

The Social Work profession is self-regulatory. As of January 2013, the AASW has 6882 members who:

- must have undertaken an accredited social work qualification;
- undertake continuing professional development activities;
- must be accredited to provide clinical mental health services through Federal programs including Better Access;
- are accountable to AASW *Code of Ethics* and *Practice Standards;*

[4] Office of the Health Services Commissioner Annual Report 2012, p. 46

- are subject to a formal complaints process; and
- pay an annual membership fee.

> *"In my private practice I was informed by a new client that his previous male counsellor had acted inappropriately towards him which had exacerbated his mental health issues. Upon investigation I discovered that this counsellor was apparently a qualified Social Worker but because he was not a member of the AASW nothing could be done about his predatory behaviour as my client was unwilling to take any civil action himself. As far as I know this person is still in private practice although I took it upon myself (with my client's permission) to inform the referring GP of my concerns."*
> ***(Personal Correspondence Member 19/7/12)***

While the existence of the Association and related mechanisms are a positive step in addressing some of the risks outlined above, the capacity of the AASW to prevent harm is significantly limited by the fact that:

- membership is voluntary and at present less than 25% of Social Workers are members of the AASW.
- the most significant penalty the AASW can impose as a consequence of serious malpractice is to refuse membership of the AASW. Given membership is generally not required by employers or confirmed by clients, this has very limited capacity to prevent or ameliorate serious harm.
- the AASW does not undertake any probity checks.

Case Study 4: Potential Implications of Negligent Practice

In a tragic case involving a parent murdering his children, an allegation was made that the Social Worker who interviewed the parent for a medico/legal assessment report had failed to ask the necessary questions about the parent's mental health state.

Whether he asked the questions or not, there was nothing in the report to indicate that the parent was seriously unstable in his mental health and needed supervision if awarded any custody.

Sauvage, D. (2011) Preliminary findings from interview transcripts, plus other published and unpublished sources, Research Project HSV 17 09 HREC, Griffith University.

The lack of a probity infrastructure is reflective of much broader issues likely to increase the incidence and impact of malpractice and public harm. This includes:

- practising without supervision, peer support or input from regulated professions;
- practising in isolation with marginalised and vulnerable populations;
- operating in highly mobile, locum or short tenure positions;
- practise outside the scope of any employer or professional Code of Conduct; and
- no requirement to maintain training and educational standards, skill and knowledge.

Other Relevant Workforce Issues

The organisational and employment environment pose additional risks. These include:

- *The rise of Private Practice*
  There are currently 1400 Mental Health Social Workers who hold Medicare Provider status. These Social Workers engage with approx 35,000 clients a year. This does not include general Social Workers who may also provide psychological services particularly in public settings.

Studies suggest that private practitioners are most at risk for engaging in unethical behaviour with clients because of the lack of organisational support and professional mentoring oversight in this setting. Independent practice may also allow troubled or impaired professionals to escape notice because of the relative isolation in which they work.

- *Unrestricted use of the title 'Social Worker'*
  AASW commissioned market research by Roy Morgan shows the vast majority of the public assume Social Workers have approved professional qualifications and are subject to regulatory measures. However, given there is no protection of title this may not be the case.
- *The increase in the outsourcing of social support and health services into unregulated environments*
- *Transfer of Risks*
  At present, any Social Worker with conduct, health or performance issues is currently free to move to employers or jurisdictions that have less regulatory scrutiny and continue to practice. Even where the number of Social Workers whose conduct poses a serious threat of harm to the public may be small, the possible outcomes and ongoing costs to the client and health and welfare systems may be significant.

"We recently interviewed for a senior role, where social work qualifications were highly desirable.

The person interviewed well, especially conceptually, but we had a feeling that not everything was as it seemed. We checked Google and the first item to come up was a reference to a social worker being disbarred in the UK, with full details of the hearing. It emerged she had had 2 full time and 3 sessional jobs at the same time and had faked at least 3 references.

Now back in Australia, the same social worker is working fulltime in a senior role with one organisation and part-time in another service. It also emerged that she worked in this latter role the whole time while she was working as a manager in a CSO, without disclosing anything to the 3 employers involved. We routinely check referees and qualifications, but it is unlikely this information would have come to light. We are, therefore, strongly in favour of registration and also reciprocal links, at least with the UK and NZ."

Registration is Already Financially and Operationally Viable

As professional membership of the Australian Association of Social Workers (AASW) demonstrates registration of the social work profession is financially viable. Regulatory documents and processes already exist in the form of AASW ethical practice, educational standards and related accreditation provisions. These existing structures and the size of the profession mean the transition to a registered environment is viable now.

Funding Base

The Social Work profession can fund a National Board and systems for registration. There are a minimum of 22,000 Social Workers practicing in Australia today. Based on the fees of like professions, we estimate the income from this group of health professionals at $6,600,000 per annum (based on a registration fee of $300). This could self-fund a registration board and associated systems. Additional revenue may be raised through the university accreditation process for which fees are charged. There are 27 universities currently providing accredited courses in social work. Legislation change should be minimal.

Accreditation Processes

Accreditation requirements for the registration and accreditation of Social Workers are in place and include:

- Education program accreditation - the Australian Social Work Education & Accreditation Standards (ASWEAS) provide the framework for provisional accreditation, accreditation and reaccreditation (every 5 years) of tertiary bachelor and master courses. With minimal effort and cost the AASW could be contracted to continue to develop the standards and manage the accreditation and reaccreditation of university programs.
- Overseas Qualified Social Workers – The AASW is the official authority for assessment of overseas qualifications in Social Work, for the purpose of migration and employment in Australia.

> *"Some years ago I was Manager of Clinical Services for a large not-for-profit agency. One of our counsellors was constantly flouting rules and behaving in an unethical manner and was eventually put on a disciplinary procedure. She had been working at the agency as a Social Worker for a number of years before my employment and on checking her qualifications I discovered that she had not completed a Bachelor of Social Work at the University that she had nominated.*
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> *In fact when I contacted the said University I was told that she had left under a cloud after only 2 years of training. She was asked to leave her position and subsequently found a position at a local Community Health Service. The CEO of my agency then contacted the Health Service and informed them that she was not a qualified Social Worker. Nothing was done and this person remains employed by the Health Service as an experienced, qualified Social Worker."*
>
> ***(Personal Correspondence Member 19/7/12)***

- Practice Standards – in 2003 the AASW implemented a set of practice standards for all Australian Social Workers.
- Code of Ethics – The AASW has an internationally recognised and respected code of ethics. The new code of ethics was launched by the Minister for Mental Health and Ageing Hon Mark Butler in November 2010. The national complaints, investigation, decision making and sanctioning experience of the AASW will be invaluable in assisting a new Australian Social Worker Registration Board.

While Social Workers practice in diverse settings and with diverse groups of consumers, all practicing social workers in Australia have been through a nationally standardised and accredited university educational program, or if they qualified overseas have had their qualifications assessed as meeting the same standards. The documents, processes and systems already exist on a national level and could be transferred to the NRAS with minimal cost.

Conclusion

While this is a Summary of the serious risks that an unregistered Social Work profession poses to the public, it is presented to the *Australian Health Ministers Advisory Council* to alert them to the realities faced by vulnerable people in seeking social work services. The AASW is keen to work with AHMAC over the next few months to assist them to develop a proposal for the advice of and further consideration by Health Ministers with regard to the eventual inclusion of Social Work in the National Registration and Accreditation Scheme.