



24 February 2022

Chris Penk (Chairperson)
Regulations Review Committee
Parliament Buildings
Wellington

Via email

Tēnā koe Chris,

Complaint about the Social Workers Registration Board (Section 13 Fees) Notice March 2022

I am writing to you on behalf of the Aotearoa New Zealand Association of Social Workers (ANZASW). ANZASW is the professional association for social workers in Aotearoa New Zealand. We wish to make a complaint and request the Regulations Review Committee's review of regulations made under the Social Workers Registration Act 2003 (the Act).

The complaint is made pursuant to Standing Order 328. The grounds for the complaint are that the regulation:

- is not in accordance with the general objects and intentions of the enactment under which it is made (Standing Order 327(2)(a)).
- appears to make some unusual or unexpected use of the powers conferred by the enactment under which it is made (Standing Order 327(2)(c)).

Background

Social workers are required to be registered under the Social Workers Registration Act 2003. It became mandatory for social workers to be registered in February 2021.

The Social Workers Registration Board (SWRB) is a Crown Entity (accountable to the Minister for Social Development and Employment) established under the Act. They operate under a cost-recovery model, receiving minimal Crown funding.¹ The SWRB can set fees (s108) and a disciplinary levy (s109) under the Act. Late in 2021, the SWRB undertook consultation with the sector about their fees and disciplinary levy.² In essence, they proposed to increase the annual cost of registration by 29% (\$137).³ In respect of the s13 Experience Pathway fees, this fee has increased from \$2,021 to \$3,570 (a 77% increase).

We are highly concerned about the SWRB's decision to increase their fees and disciplinary levy. We prepared a comprehensive submission to the SWRB Board outlining our concerns and the reasons for this, including comprehensive feedback from our members about the impact the decision will have on social workers. We have attached this submission and refer the Committee to this document.

¹ For Crown Entity reporting and their social work workforce planning lead function.

² A copy of the consultation document is attached for your convenience.

³ The annual cost of registration is made up of the Practising Certificate Fee (\$470) and Disciplinary Levy (\$135).

On 21 December 2022, the SWRB released their decision that they would be increasing their fees and disciplinary levy.⁴ Subsequently on 31 January 2022, in line with their decision, the SWRB Gazetted⁵ their decision in relation to one of their fees (s13 Experience Pathway), which comes into effect on 1 March 2022. To date, they have not yet Gazetted the other changes to fees, despite having made (and publicised) the decision. We consider this to be somewhat unusual practice.

Our complaint is about the currently Gazetted Notice and we intend on bringing a further complaint about the not-yet Gazetted decisions. We wish to highlight now our intention to the Committee that there will be a further complaint made about a related notice.

Grounds for complaint

- Standing Order 327(2)(a): The regulation is not in accordance with the general objects and intentions of the enactment under which it is made
- Standing Order 327(2)(c): The regulation appears to make some unusual or unexpected use of the powers conferred by the enactment under which it is made

The regulation discourages registration

The stated purposes of the Act, set out in section 3, are to protect the safety of the public, provide a framework for registration of social workers, and to enhance the professionalism of social workers. The legislation provides a framework through which social workers must be registered. Social workers must be registered in order to achieve the purposes of the Act. The creation of significant barriers to registration is likely to dissuade social workers from being registered and it is possible for them to be employed in the sector without being registered.

The Act only protects the title of social worker. This means that as long as you don't call yourself a social worker, you can essentially practice as a social worker (for example, by being called a whānau support worker). There is a large pool of unregulated professionals within the social service sector. They do not have to be registered under the Act as they do not call themselves a social worker, but they may practice similar work as a social worker. Our understanding is that only approximately 50% of those who graduate with a recognised social work degree go on to be registered. This suggests there is a large number of social work qualified individuals who are not registered as social workers.

Since the legislation for mandatory registration was passed in 2019, there has been a 64% (\$207) increase in the cost of registration. The cost of registering by the section 13 pathway has increased to more than \$3,500. Our understanding is that the majority of those still registering (or eligible to register) via this pathway work in the community sector. Community social workers earn an average of \$58,000/annum and would not be in a position to afford the significant fees for registration. Furthermore, there is a significant shortfall in funding in the community sector, meaning many employers are unlikely to fund this cost of registration. It is our view that this cost creates a significant barrier for registering through the s13 pathway, and therefore, undermines the intention of the Act.

You will see from our submission the impact the fee changes will have on social workers. We have heard from many experienced social workers they will no longer be able to afford the cost of registration and will therefore stop being practising social workers. Again, we view this as a rationale for the regulation as undermining the intention of the Act.

⁴ <https://swrb.govt.nz/board-decision-fees-and-levy/>

⁵ Gazette Notice Number 2022-gs289. <https://gazette.govt.nz/notice/id/2022-gs289>

The size of the SWRB staff is far greater than should be expected

The SWRB says that it is at risk of regulatory failure unless it increases its fees. The SWRB states “we need critical regulator capability to enable us to focus on areas we haven’t previously. The capability needed, to be built over the next three years, is for areas that are cost-intensive to deliver”⁶. They then list three areas:

- Promoting and supporting high standards of practice and professional conduct among registered social workers and employers of registered social workers
- Being an active partner with Māori
- Seeking the views of Pacific peoples and cultural groups in Aotearoa.

Whilst these areas are included in the legislation, we do not believe they are a primary focus or intention of the legislation and SWRB is seeking to use the costs of registration towards these areas. In our submission to the SWRB we have compared the staffing size of comparable regulators under the Health Practitioners Competence Assurance Act 2003.⁷ We found that the size of the SWRB staff is extremely large in comparison to other regulators. The SWRB staff is, in our view, unjustifiably large, resulting in extremely high fees required to be recovered.

Conclusion

We have outlined our significant concerns in the submission to the Social Workers Registration Board. We respectfully refer the Committee to this submission and the appendix, which includes the feedback we received from members. For the reasons outlined in this letter and our submission to the SWRB, ANZASW considers that the SWRB Fees Notice is not consistent with the general objects of the Act and reflects an unusual use of powers.

Thank you for your consideration of this complaint. We would welcome the opportunity to address the committee in relation to this issue. Please do not hesitate to contact me if you require any further information or clarification. We look forward to hearing from you.

Ngā mihi nui,



Braden Clark
Kaiwhakahaere Chief Executive

Attachments

Gazette Notice 2022-gs289
SWRB Consultation on Fees and Disciplinary Levy
ANZASW Submission on the SWRB fees consultation

⁶ Social Workers Registration Board. (2021). SWRB Fees and Disciplinary Levy: Consultation on change proposals. p. 6.

⁷ The Social Workers Registration Act and Health Practitioners Competence Assurance Acts are roughly comparable.