



**Social Workers
Registration Board**

Kāhui Whakamana Tauwhiro

**ADDRESSING PUBLIC SAFETY FOR SOCIAL WORKER-LIKE
KAIMAHI**

**Report to the Minister for Social Development and
Employment**

Report by: Social Workers Registration Board

21 March 2024

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Executive summary

Background

- 1 The Social Workers Registration Board (SWRB) was funded to undertake work to better understand ‘social worker-like’ roles, including considering how public safety could be strengthened.¹ This followed Cabinet agreement to extend pay equity to social workers, and workers doing substantially similar work to social workers, in community and iwi organisations.
- 2 Workers doing substantially similar work to social workers, were identified as category 3 in the pay equity claim process and are referred to as ‘social worker-like kaimahi’ in this report. While they are not social workers under the Social Worker Registration Act 2003, (as they do not meet the requirements of the general scope of practice, which requires degree level qualifications) they are eligible for the extension under the Equal Pay Act.²
- 3 The SWRB commenced this work in March 2023. From the outset there was significant support from the sector.
- 4 This work has been happening within the context of ongoing concerns about the professionalism and safety of the social service sector workforce, and long-term consequences of harm, often for children and young people.
- 5 The SWRB has been working closely with the Ministry of Social Development (MSD) as this work complements MSD’s proposed work to assess safety mechanisms in the wider social services sector. MSD is also the administrative agency for the Social Worker Registration Act 2003 (referred to as the SWRA and the Act) which includes policy work relating to the Act, as well the monitoring agency of SWRB.
- 6 Work led by the Public Service Commission (PSC) as part of the pay equity roll-out found that approximately 30 percent of those eligible for the pay equity extension for social workers in community and iwi organisations are unregistered social worker-like kaimahi.

Social worker registration

- 7 Social workers are the only regulated workforce in the social services sector (apart from where it intersects with regulated health professionals). Registration³ is about ensuring that social workers are competent and safe to work with vulnerable individuals and communities, reducing risk of poor practice which can have lasting impacts on people’s lives.
- 8 The title of ‘social worker’ is protected under the SWRA 2003 and can only be used by workers whose work involves tasks within the general scope of social work practice and who are registered with the SWRB. However, there are no tasks that only registered social workers have the mandate to deliver, even in child protection or mental health and addiction services. Whether some activities⁴ should be restricted to registered social workers is something that could be explored in further work.
- 9 Our engagement with the sector confirmed that many social worker-like kaimahi are doing the same work, in the same settings and with the same individuals and communities as registered social workers.
- 10 While social worker-like kaimahi are eligible for the extension under the Equal Pay Act, there are clear differences in the required qualifications and expected competencies of registered social

¹ The claim predated mandatory registration that came into effect in February 2021.

² The Equal Pay Act states that affected workers who are automatically covered by a claim are those performing work that is the same as, or substantially similar to, the work to which the claim relates.

³ Key components of registration include fitness to practise, competence, and accountability.

⁴ Examples of activities that could be restricted to registered social workers include psychosocial assessments, care and protection risk assessments, and reviewing and closing off plans.

workers (who have completed a four-year degree or have been assessed as having commensurate experience) compared to social worker-like kaimahi.

- 11 Contracting practices vary between government agencies and some contracts have either never stipulated the requirement for a registered social worker, or no longer make this a requirement, which impacts the pricing for a service and the funding provided for it. This can impact an organisation's financial ability to employ a social worker.
- 12 While we do not know the size and scale of the public safety risk, our initial review indicates that there are unlikely to be any grounds for suggesting that the risk to the public of poor practice by social worker-like kaimahi is any less than that of social workers.⁵ As such, the same rationale for social worker registration could be applied to those in social worker-like roles.
- 13 Prior to mandatory registration, many social worker-like kaimahi would have been considered social workers. The current scope of practice which includes degree level qualifications is a bar that has been set by the SWRB Board (the Board). The Board has the authority to create additional scopes, with different qualification pathways, including experience and can also apply conditions of practice.
- 14 The SWRB intends to review and potentially tighten the current general scope of practice in tandem with work to explore whether there should be restricted social work activities, and if so, what these might be.

The Act

- 15 Our analysis of the SWRA 2003 suggests that these kaimahi are registrable under existing levers in the Act, creating an opportunity to increase professionalism and public safety.
- 16 Changes to the Act that came into force in 2021 provide the Board with levers that can be applied to increase the catchment of registrable social workers, including category 3, social worker-like kaimahi. This can be done through the Board describing additional scopes of practice and/or applying general conditions on the existing or new scopes of practice. New scopes of practice would be accompanied by bespoke prescribed qualifications and competency assessments.
- 17 In recent years there has been a drive to increase professionalism of social workers. It is important that these gains are not undermined, and that there is a clear differentiation between social workers registered under the current general scope of practice, and any additional scopes of practice for social worker-like kaimahi.

There are other benefits to increasing oversight of this workforce

- 18 In addition to strengthening the settings and increasing public safety by ensuring people in social worker-like roles are fit to practice and competent, there are other benefits that could be explored, which may also be relevant to MSD's proposed work on the broader social sector, such as:
 - Providing an opportunity for career progression in terms of qualifications and scope for those who want to.
 - Broadening pathways could contribute to reducing the current workforce shortage.
 - Embedding workforce safety mechanisms to support communities to take a greater role in working with and supporting their own people.
 - Recognising the mana, skills, and experience of social worker-like kaimahi by creating a scope that reflects their expertise and area of practice.

⁵ Arguably, fitness of character to work with highly vulnerable people, including children, is likely to be a small but relevant factor in the unregistered population simply because of the lesser scrutiny of that cohort.

- Ensuring diversity of practitioners, reflecting the diversity and needs of communities.
- Bespoke qualifications including recognising relevant experience, developed over time that can be achieved through 'learn while you earn' approaches.
- Closing a safety loophole currently available to social workers facing disciplinary action who can take on social worker-like roles, to avoid oversight and accountability.
- Reducing the risk of harm to clients and the cost of addressing that harm at a later stage.

Areas for further work

- 19 Additional policy work would be required to further assess the size and scale of any proposed changes and weigh up the costs versus the benefits of increased regulation as it would have implications for the wider sector. This intersects with the work MSD proposes to undertake on the safety of the broader social service sector. This report complements the work MSD is doing in this area and MSD and SWRB can work collaboratively on any future policy work relating to these two items.
- 20 While the SWRB may have the levers to increase the catchment of registrable social workers, more resource and work would be needed to refine:
- The problem/risk to public safety to ensure the proposed interventions are proportionate and warranted. Our work indicates that there is a case for increased oversight and that the problem definition closely aligns to that articulated for the regulation of social workers. However, this could be explored further.
 - The definition of social worker-like kaimahi. Work to date shows that their qualifications and roles are varied, reflecting the reality that much of the social sector workforces is made up of a continuum of workers with generalist and specialist skills, training, and education.
 - The financial and non-financial costs and benefits of increased regulation. Benefits could include the avoidance of significant harm and the long-term costs of poor practice. This needs to be weighed against costs to government and service users, noting that many social services workers are low paid. The new Ministry of Regulation, once operational, would need to be involved, as would other system leads with a role in the work, e.g. Ministry of health.
 - The extent to which existing mechanisms already address risk and whether they could be modified to provide extra protections, for example, whether supervision of social worker-like kaimahi should be/could be specified in existing legislation or regulation.
 - Options for improving workforce data for the social services sector.
- 21 Any consideration of additional scopes would require careful engagement and communication with the sector. With mandatory registration, there has been a drive towards increased professionalism of the social worker workforce. The purpose of any additional intervention would be to increase the safety net and mana of the social worker-like workforce, not diminish or devalue social workers operating under the current scope of practice or see a merging of social worker roles with other roles.

The SWRB would like your feedback

- 22 The SWRB would like your feedback on how additional regulation to strengthen public safety aligns with your priorities for the social work and wider social services sector.

Purpose

- 23 The purpose of this report is to advise you of work the SWRB has been doing to better understand social worker-like roles, with a focus on public safety considerations. The report highlights that:
- Many workers in social worker-like roles are doing the same work as registered social workers but without the same regulatory oversight.
 - Existing legislative mechanisms in the SWRA 2003 would allow regulation of these workers via registration.
 - There is a strong preliminary case, based on enhancing the safety of the public and broadening pathways into social work, for registering this class of workers as social workers under different scopes of practice. More work is needed to refine the public safety considerations and better understand the full implications of taking this course of action.
 - Additional policy work to further assess the risk to public safety and weigh up the costs and benefits of further intervention is required.
- 24 The approaches discussed in this report may go some way towards increasing professionalism in the wider social worker sector and addressing ongoing public safety concerns.
- 25 The SWRB Chief Executive and Board Chair welcome the opportunity to discuss this work with you and seek your feedback on how it aligns with your priorities.
- 26 We have been working in close collaboration with MSD. Insights from this work may inform MSD's proposed policy work look to at the wider social service workforce and assess the system settings that support their safe practice. MSD is the administrative agency for the SWRA 2003, which includes policy work relating to the Act. It also has a key role as the government's social policy lead and in commissioning social services and supports with approximately 2,000 providers including community-focused programmes related to family violence/sexual violence services, building financial capability, community resilience, and supporting marginalised people and communities.

Introduction

- 27 The SWRB has undertaken work to better understand 'social worker-like' roles, including considering how public safety could be strengthened. This followed Cabinet agreement⁶ in November 2022 to fund the SWRB to undertake a one-off project to engage with, scope, and identify public safety considerations for the category 3 workforce as part of the pay equity extension for social workers in community and iwi organisations.
- 28 Category 3 workers (defined for the purposes of the pay equity claim⁷) undertake work that is substantially similar and proximate to registered social workers, and as such were covered by the pay equity extension, as per the Equal Pay Act. The PSC, as the lead agency, used the following key screening criteria to identify category 3 workers:
- that 80 percent of their day-to-day work overlaps with the same tasks as a registered social worker
 - they must be supervised or be overseen by a registered social worker
 - their main activity cannot be budgeting, youth work, financial mentoring, administration or needs assessment.

⁶ SWC-22-MIN-0196 refers.

⁷ In 2019, the Public Service Association raised a claim with five NGOs for social workers and people doing the same or substantially similar work. This identified four categories of work: Category 1: Registered social workers; Category 2: Registered professionals (but not registered social workers) employed in a social work role; Category 3: Professionals undertaking work substantially similar to social work, but not regulated; and Category 4: Registered social workers or other registered professionals leading social work practice.

- 29 In this report we refer to category 3 workers as ‘social worker-like kaimahi’.
- 30 The PSC pay equity eligibility process identified approximately 1,400 unregulated workers in social worker-like roles who met the category 3 criteria (above).
- 31 It is important to recognise that there are many more workers in social worker-like roles that did not/will not meet these criteria. For example:
- they may be undertaking social work tasks, but unsupervised, or the proportion of their work is below the 80 percent threshold
 - they may work outside the government funded sector
 - their organisation may have opted out of the pay equity process.
- 32 Like social worker-like kaimahi (category 3) these workers are part of the broader social services workforce.
- 33 Currently, social workers are the only regulated workforce in the social service sector (excluding intersecting health professionals, such as psychologists who are subject to occupational regulations under the Health Practitioners Competence Assurance Act 2003 (HPCA)). There is an interest amongst the wider social service sector in better understanding whether existing safeguards and accountability mechanisms are sufficient to protect the safety of the public. Wider system safety, focusing on safe practice of social service workers not covered by the pay equity settlement is an area that MSD has been considering and will be seeking your agreement to do further work on.
- 34 This report brings together the SWRB’s key findings and recommends further work to strengthen public safety following:
- engagement with the sector, including discussions with sector leaders, professional associations, and recognised experts; surveying social worker-like kaimahi and their employers; face-face and online hui involving social workers, social worker-like kaimahi, and their employers.
 - a review of how public safety is addressed in analogous professions in Aotearoa New Zealand, and in social worker-like professions internationally.
 - analysis of the SWRA 2003 to identify whether there are existing legislative mechanisms available to the SWRB, such as conditions and additional scopes of practice, to further strengthen public safety by increasing the catchment of registrable social workers.
- 35 MSD will be providing you with advice seeking agreement for further work to assess the system settings that support safe practice across the wider social service workforce. SWRB’s work on the social worker-like kaimahi intersects with MSD’s work on the wider workforce and these two items are being developed collaboratively. There are also important connections with MSD’s and SWRB’s joint work to consider entry pathways into the social worker profession with advice on this due to your office in the next few weeks.

Understanding social worker-like roles and the public safety implications

Approximately 30 percent of those eligible for the extension are social worker-like kaimahi

- 36 Work done by the PSC as part of the pay equity roll-out provided a valuable foundation for the SWRB to build on. PSC data showed there were almost 1,400 kaimahi in social worker-like roles, or 30 percent of those eligible for the extension. The main contracts these kaimahi are employed under are:
- National Office Women’s Refuge (Ministry of Social Development and Ministry of Justice funding)
 - Non-violence programmes and safety programmes (Ministry of Justice funding)
 - Family Start (Oranga Tamariki funding)
 - Transitional Housing Services (Ministry of Housing and Urban Development funding)
 - Whānau Ora (Te Puni Kōkiri and Te Aka Whai Ora funding)
 - Mental health and addictions services (Te Aka Whai Ora and Health New Zealand Te Whatu Ora funding).
- 37 Our engagement with community and iwi organisations found that they often work under several contracts. Contracting practices vary between government agencies and some contracts have either never stipulated the requirement for a registered social worker, or no longer make this a requirement, which impacts the pricing for a service and the funding provided for it. This can impact an organisation’s financial ability to employ a social worker. PSC work also found that many practice lead positions (which focus on practice quality and safety) are funded through overheads.

The sector was keen to engage with SWRB on this work

- 38 There has been significant support for this work from the social services sector, that recognises many of the issues identified in this report and wants to ensure that individuals and communities receive competent and safe services. We understand there has been considerable discussion in the sector about the work that is being performed by social workers and those kaimahi in social worker-like roles. We also understand that much of this discussion has been based on anecdote and hearsay. Through this work we have had hui with social worker-like kaimahi, registered social workers, employers, sector leaders and experts, and professional associations, Aotearoa New Zealand Association of Social Workers (ANZASW) and Tangata Whenua Social Workers Association Kāhui (TWSWA). We also sought guidance on our approach from the SWRB’s Board and Kāhui Ringa Rehe. All have generously participated and shared their knowledge. See Appendix One for the full engagement report.
- 39 Following initial discussions with sector leaders and experts we engaged with social worker-like kaimahi and their employers through a survey sent to employers with kaimahi eligible for the pay equity extension. The PSC, as the pay equity lead, facilitated this process by contacting all eligible category 3 organisations on our behalf. Approximately 200 kaimahi and their managers/kaiwhakahaere responded. While the data does not meet the criteria of being a statistically robust sample, it provides useful information and insights into the workforce/s. For example, kaimahi:
- Commonly used job titles such as whānau/family support worker, Kaiwhakahaere⁸, kaimahi⁹, advocate, coordinator, and mentor.

⁸ Translates to council, advocate, agent, advisor.

⁹ Translates to worker, employee, clerk, staff.

- Tended to work in child, youth, and whānau support, mental health, and whānau/family violence.
 - May have substantial experience or community/iwi-based connections in roles where professional registration is not a requirement.
 - Drew on practice frameworks including social work, community, or te ao Māori frameworks to guide their work
 - Mostly received supervision, but frequency and quality of supervision were variable. One-quarter said they are not supervised at all.
 - Were mostly aware of complaints processes.
 - Had a range of qualifications, with around half qualified at bachelor's level and some with social work qualifications.
 - Were offered training and skills development.
- 40 Key themes, arising from discussions with sector leaders and experts, the survey and additional engagement hui are discussed below.
- 41 Some organisations raised inconsistencies around the pay equity roll-out and issues of who had been included in category 3. Those implementation issues fall outside the scope of this work and are not covered in this paper.

We found that many social worker-like kaimahi have similar responsibilities to social workers, and for many, the risks are the same

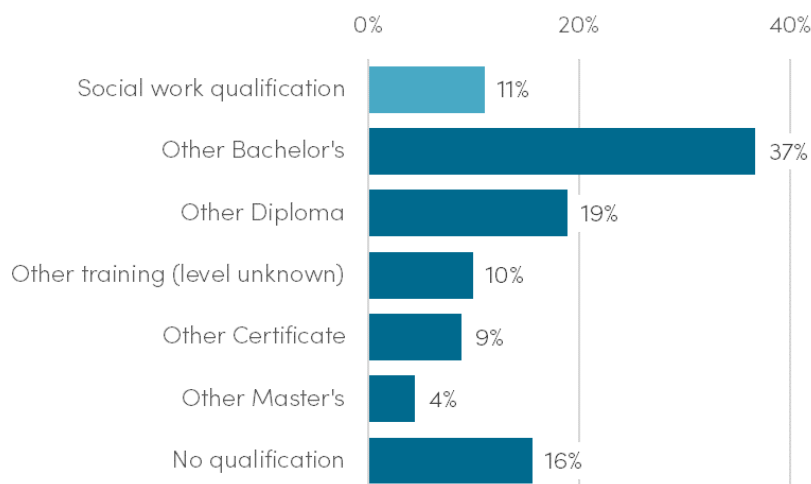
- 42 During our engagement work we asked social worker-like kaimahi and their employers to share their perspectives on the similarities and differences between the approach, work and outcomes of kaimahi and registered social workers. Responses varied significantly from 'kaimahi are not and cannot be social workers' to social worker-like kaimahi are doing 'exactly the same work'. Some organisations differentiate between the roles and use them differently, for example some organisations allocate more complex and high-risk work to social workers, while others emphasised there is no difference.
- 43 For those that felt there was no difference, they reported that social worker-like kaimahi 'walk alongside whānau', work with Oranga Tamariki and MSD, coaching and advocating for clients in the same way as registered social workers. One organisation who took this approach stressed that all kaimahi are treated as if they are registered, are required (by them) to follow the same policies, code of ethics and behaviour, and receive the same supervision and support as their registered social worker colleagues.
- 44 We know from the pay equity extension data (to determine eligibility) that they are working in the same community and iwi organisations, with the same clients and communities, delivering the same services, funded by the Crown. Three quarters of kaimahi surveyed said their main focus is child, youth and whānau support work. Mental health and family violence were other key areas highlighted.
- 45 Social worker-like kaimahi cannot use the title of 'social worker' which is protected by the SWRA 2003¹⁰, but they are practising social work/undertaking social work tasks. However, there are clear differences in the required qualifications and expected competencies of registered social workers (who have completed a four-year degree or have been assessed as having commensurate experience) compared to social worker-like kaimahi.

¹⁰ The SWR Act 2003 requires anyone presenting or practising as a social worker to be registered with the SWRB. Only people registered may use the title 'social worker', descriptions stating or implying that the person is a social worker.

- 46 This raises the question as to whether some social work activities should be restricted to registered social workers, e.g. psychosocial assessments and care and protection risk assessments. The SWRB intends to do further work in this area, alongside a review of the current general scope of practice.
- 47 The wider social worker workforce/s, and indeed unregulated social sector workforces are part of a continuum of workers with generalist and specialist skills, training and education. Our engagement found a range of job titles used by social worker-like kaimahi. In their own words, common role titles included:
- Whānau/family support worker
 - Case worker
 - Community connector/worker/navigator
 - Kaiwhakarite
 - Kaiāwhina
 - Advocate
 - Coordinator
 - Mentor.
- 48 The individuals and communities that social worker-like kaimahi are working with experience vulnerability and/or face significant and complex challenges. Like registered social workers, social worker-like kaimahi work with their clients in a range of settings, including in people’s homes.

Social worker-like kaimahi qualifications and experience vary

- 49 As expected, qualifications and experience are diverse, with many social worker-like kaimahi telling us about their own lived experience. Survey responses showed that 43 percent had worked in the social sector for 1-4 years and 20 percent had worked in the social sector for 15 years or more.
- 50 It is worth noting that many of the social worker-like kaimahi who engaged with the SWRB (through our survey and hui) have academic qualifications, for example diplomas and bachelor's degrees in areas such as education and psychology. Many also participate in continuing professional development relevant to their work, and three quarters identified other areas for professional development, e.g. mental health, family violence and harm, social work, cultural competence, and leadership and management.
- 51 Qualifications – kaimahi sample (90 kaimahi)



Five kaimahi participants have both a social work and other qualification(s), so the total is more than 100%

- 52 Some kaimahi also told us they are studying part-time towards their Bachelor of Social Work, or a relevant postgraduate qualification, with the aim of becoming a registered social worker. One organisation we spoke with financially supported someone to complete their Master of Professional Practice and Leadership. That same organisation reported bonding to retain staff it has financially supported through their qualifications.
- 53 Almost three quarters of kaimahi survey respondents said they used te ao Māori frameworks in their role and eight percent said they use Pacific frameworks in their role. Nearly half regarded themselves as ‘indigenous practitioners’ (47 percent).
- 54 Our engagement also highlighted that many are experienced in providing social services and working with communities – often they come from those communities and may have experienced the same issues their clients are facing. Having a close connection with the communities they work with was identified by employers as the main reason for employing staff into social worker-like roles. A shortage of trained social workers was the second most common reason.

Systems and processes to ensure safe practice are inconsistent across the sector

- 55 Many of the community and iwi organisations have detailed induction processes and training for all staff in ‘people-facing’ roles. For example, social worker-like kaimahi working in the family violence space may receive a wide range of training related to their job¹¹. Conversely, some organisations do not provide any internal training. One organisation shared that it has kaimahi who have been working for them for five years and not gained any qualifications during that time. That organisation was looking to increase staff training and had partnered with a training provider.
- 56 Employers and practice leads emphasised the importance of looking after staff wellbeing, so that they were in a ‘good space’ to support clients. Discussions around practising safely often focused more on worker safety (for example buddy systems and GPS tracking) rather than systems for client safety. In the survey, 30 percent of employers/managers said they had concerns about staff safety. Of the kaimahi survey respondents, nearly half (47 percent) said they always felt safe at work. The remainder said they usually (48 percent) and sometimes (6 percent) felt safe. In terms of safe practice, 14 percent of kaimahi had witnessed work practices that would raise public safety concerns.
- 57 In the survey, internal and external supervision was identified by employers/managers as their main mechanism for ensuring safe practice. However, a quarter of kaimahi surveyed said they received no supervision at all. In our hui, employers also spoke of the importance of training and supervision to provide staff with the ability to practise safely.
- 58 Many social worker-like kaimahi receive regular supervision, like their social worker colleagues. Others told us they receive little to no supervision and for some their supervision is internal and looks more like line management.
- 59 This raises some concern given that these kaimahi are essentially doing the same work as social workers and to be eligible for the extension (category 3) should be being supervised or overseen by a registered social worker, or registered professional.
- 60 The frequency of supervision for social worker-like kaimahi is reported in the table below:

Frequency of supervision	Number of Kaimahi	Kaimahi %
Daily	6	7%
Weekly	26	30%

¹¹ Training in the family violence space covered active listening, crisis calls, conflict, diversity, family violence awareness and advocacy, high-risk safety planning, methamphetamine and other drugs, non-fatal strangulation, occupancy orders, paramountcy of the child, parenting orders, protection orders, self-care, sexual violence, staff safety, trespass, and police safety orders.

Monthly	28	32%
Occasionally	6	7%
Not at all	22	25%
Total	88	100%

Supervision is key to safe practice and is a requirement for registered social workers

- 61 Within the social worker profession there is strong evidence to support supervision as a fundamental pillar of safe practice. Supervision is considered integral to supporting social worker wellbeing, development, and practice¹². Ideally it should be separate from line management.
- 62 The SWRB Code of Conduct for social workers explains that ‘supervision is a key part of being a competent social worker. It lets you (amongst other things) reflect on your current practice and offers opportunities for learning and development. It helps you apply social work ethics, including te ao Māori values.’ The Code of Conduct also highlights the value of supervision in exploring ethical dilemmas and cultural issues. As part of their annual practising certificate requirements, social workers must engage in monthly supervision (and have a supervision contract) as well as continuing professional development.
- 63 We had discussions with SWRB social workers to better understand the role of supervision and to look at other operational safety and quality mechanisms (in addition to supervision) organisations could have in place to ensure social worker-like kaimahi (and social workers) are supported and public safety is strengthened. They highlighted that in addition to regular supervision, organisations can support staff and safe practice by ensuring the following are in place as a minimum:
- reference checking and police checks
 - checking the register (as some social workers facing disciplinary action take up social worker-like roles)
 - induction and orientation training for all new staff
 - clear job descriptions
 - on the job training – including managing escalation, disclosure and knowing when to refer on to another professional, as well as training focused on:
 - awareness of the client group
 - professional and personal boundaries
 - confidentiality
 - conflicts of interest
 - regular continuing professional development.
- 64 Many community and iwi organisations will have these processes in place. However, at present, there is not a consistent framework of expectations around safe practice for social worker-like kaimahi (or the wider social sector workforce/s).
- 65 The SWRB is currently working with Oranga Tamariki to build the capability of their social workers and enhance their professionalism. This involves developing resources to enhance their understanding of their regulatory and legislative obligations under the SWRA 2003. While Oranga Tamariki social workers will be the primary audience, these resources will be available for all social workers.

Data limitations make it difficult to define the occupational scope of category 3 workers

- 66 The social services sector in New Zealand is broad, varied and difficult to define. There is no clear or overarching systems view, with limited clarity about where the boundaries lie, for

¹² The Routledge International Handbook of Social Work Supervision, Edited by Kieran O'Donoghue and Lambert Engelbrecht, 2021.

example with the education or health sector. This makes it difficult to understand the needs of the different workforces and associated risks.

- 67 We know that there is a large workforce and provider base practising with little oversight or formal regulation. Social worker-like kaimahi sit in this wider social sector workforce. In terms of estimating the size (of the wider sector) there are a number of limitations. These are discussed in more detail in Appendix Two.
- 68 The SWRB has comprehensive information about the social worker workforce as a result of the register and annual social worker workforce survey, promoted through the practising certificate round. There are currently 11,850 social workers on the register, with approximately 8,700 holding practising certificates. Our workforce survey¹³ provides valuable information and insights, including:
- One in five practising social workers are aged 60 or over.
 - 23 percent are Māori, 11 percent are Pasifika. The largest group for the workforce survey participants was European at 67 percent.
 - Almost all practising social workers held a social work qualification (97 percent) in 2023.
 - One third of social workers who gained registration through the experience pathway identify as Māori.
- 69 There is little robust information about the wider social sector workforce which is broad and varied. While there are various work programmes across government that will in time improve our understanding of the sector, e.g. the Social Sector Commissioning action plan and the Social Wellbeing Agency Social Sector Data Sharing Standard¹⁴, the benefits will take some time to realise.
- 70 For the social worker-like workforce/s we were able to access high-level information identified through the pay equity eligibility process e.g. numbers of social worker-like kaimahi, organisations and key contracts. The Public Service Commission facilitated contact with employers, who had the option of opting into our survey and/or contacting us.
- 71 However, wider social sector data is inconsistent and fragmented. We would support calls for better workforce data to improve the functioning of the sector. Options range in size and scale, for example:
- building on existing data provided by community and iwi organisations about their social worker-like kaimahi
 - targeted research to understand organisational practices
 - building questions into the inaugural SWRB employer survey
 - social sector workforce survey/census of the non-regulated health and social sector workforces, ideally carried out by Statistics New Zealand.
- 72 Work to improve sector data needs to be collaborative across relevant government agencies and the social sector to ensure that current and future data needs are met. (Appendix Two refers).

The social work profession in Aotearoa is relatively young

- 73 The SWRA 2003 established the Social Workers Registration Board and the first regulatory oversight of the profession. It enabled voluntary registration of social workers and protected the title of registered social worker. The Act required regular review with a focus on future

¹³ Responses were received from 4,411 social workers (51 percent of those practising).

¹⁴ The Social Sector Data Sharing Standard is a standardised format for data collection and sharing, making it easier for organisations to share and use data.

movement to mandatory registration.¹⁵ The subsequent reviews of the Act recommended movement to mandatory registration. This was not actioned by Government until Minister Tolley (as the Minister for Social Development and Employment) agreed to take mandatory registration forward following the 2015 review of the Act leading to the 2019 amendments. Those amendments made registration mandatory for anyone wishing to call themselves a social worker or who is occupying a social work position.

- 74 The other key focus of discussion in most of the SWRA reviews was the question of the breadth of the profession and who should be registrable, with much of that discussion being about pathways to professionalism. This discussion led to the 2019 amendments empowering the Board to issue differentiated scopes of practice, thereby providing the potential to have a greater range of workers registered under the Act.

Social worker registration was established to protect the public, and the same rationale could apply to social worker-like kaimahi

- 75 Individuals and communities receiving social work services, either by a social worker or by social worker-like kaimahi experience vulnerability and face significant and complex challenges. Vulnerability may be exacerbated by factors such as young age, poverty, frailty, disability, or poor mental or physical health. Social workers and social worker-like kaimahi are in positions of responsibility, dealing with complex situations and making difficult judgements. There is a power imbalance between client and practitioner. Therefore, they need to be competent and trustworthy.
- 76 The SWRA 2003, which regulates social workers, was enacted following a series of concerns raised about the risk of harm, poor practice and the lack of accountability.
- 77 The Cabinet Office Policy Framework for Occupational Regulation and The Treasury's guidance on good regulatory practice provide useful frameworks for consideration of any intervention to address risk of harm through occupational practice. They require clear problem identification, clear objectives, and an understanding of the efficiency, effectiveness, benefits, and costs of the full range of intervention options that could solve the problem. If significant harm is likely and existing protections are insufficient, then there is a strong case for intervention. Interventions should be focused on policy outcomes and be proportionate to the risk.
- 78 Occupational interventions and regulation seek to address safety through improving and assuring the quality of practice. However, regulatory intervention can have impacts on practice, the workforce, and the broader system. This can include adding to the complexity and costs to the system and hindering workforce innovation and optimisation. Implications for indigenous and other specific populations and practices also require consideration.
- 79 The Cabinet Office Policy Framework for Occupational Regulation has three key considerations for assessing risk when determining the need for regulation of a workforce. They are:
- the likelihood of significant harm occurring
 - the extent to which any harm caused is irreversible
 - whether the risk is voluntarily entered into by the client.
- 80 The higher the potential for risk, the stronger the case for regulation. Using this framework, the former Ministry of Social Policy assessed the risk of service failure in the social worker workforce as moderate to high.
- 81 The Royal Commission of Inquiry into Abuse in Care interim report *Tāwharautia: Pūrongo o te Wā* highlighted the nature and long-term impact of the harm that occurred in the context of its

¹⁵ Prior to 2019, section 104 required reviews of the Act (reviews required three years after Royal assent and every five years thereafter) to consider whether the system of voluntary registration was achieving the purposes of the Act relating to protecting the safety of the public and enhancing the professionalism of social workers.

work. The long-term impacts include alcohol and drug use, suicide, poor education and employment outcomes, criminal behaviour, financial insecurity, and unhealthy relationships.

- 82 MSD's Regulatory Impact Statement for the legislative changes to increase professionalism of the social work workforce (2017), categorised the harm that can be caused by social workers as follows:
- criminal (dishonesty, theft, violence, sexual assault)
 - abusive (abuse of trust and power)
 - inappropriate in nature (including relationship boundary violations)
 - poor professional judgement or poor practice (including failure to properly investigate reports of risk to vulnerable people, inadequate or incorrect assessments, and breaches of confidentiality).
- 83 The Regulatory Impact Statement noted that these risks may be exacerbated when social workers:
- are unqualified or incompetent
 - have a physical or mental health condition which affects their ability to practise
 - have a criminal history, falsified identity or false qualification
 - place their own interests above those of their clients.
- 84 We consider that a similar assessment of risk could be applied to many of the social worker-like kaimahi we engaged with, as they are delivering social work services (alongside registered social workers). We would support further work to understand and assess this risk, as we consider there to be a strong case for higher levels of professionalism and accountability.

Mandatory registration of social workers has been in place since 2021

- 85 Mandatory registration of social workers has been in place since 27 February 2021. Anyone wishing to call themselves a social worker must be registered and meet minimum standards. Key protections included in the regulatory framework (system-wide) for social workers include:
- Registration database (publicly available) (sections 6AA-24 of the Act)
 - scopes of social work practice (with prescribed qualifications set by the SWRB) (ss.5A-5C)
 - annual practising certificate (with the following requirements) (ss.25-37)
 - code of conduct (s.105)
 - core competence standards (ss.38-46)
 - supervision (monthly) (s.8H)
 - continuing professional development (s.38A)
 - independent complaints and disciplinary processes. (ss.59-96)

These system-wide protections do not apply to social worker-like kaimahi

- 86 Prior to these 2021 changes (particularly the prescribed qualifications), many social worker-like kaimahi would have been working as social workers.
- 87 While the risks are similar, and for some, arguably greater, none of the mechanisms set out above are required of social worker-like kaimahi or other social sector workers. Supervision, support and training are determined by employers, or may be part of contractual requirements from government funders, and access to these is variable.
- 88 It is important to note that regulation is a continuum and the full suite of measures outlined above may not be necessary for social worker-like kaimahi.

Other system safeguards

- 89 There is a framework of oversight bodies focused on Oranga Tamariki and the care and protection system. These include the Office of the Ombudsman, Aroturuki Tamariki/Independent Children’s Monitor and Mana Mokopuna/Children and Young People’s Commission. These organisations monitor system performance rather than the competence, safety and accountability of kaimahi to the New Zealand public. Although if during the course of their monitoring they came across an issue about a particular worker, they will follow up and ensure appropriate action is taken.
- 90 Additionally, community and iwi organisations must usually¹⁶ be accredited by Te Kāhui Kāhu to hold contracts with the following funding agencies:
- Oranga Tamariki
 - Ministry of Social Development
 - Ministry of Housing and Urban Development
 - Ministry of Justice
 - Department of Corrections
 - Ministry for Pacific Peoples.
- 91 The accreditation process looks at key markers of organisational wellbeing, such as policies and procedures related to financial systems, staffing, training and support, how vulnerable clients are kept safe, governance structures, programmes, and services. Te Kāhui Kāhu has a focus on the organisation rather than individual practitioners and does not handle complaints from the public about practitioner behaviour. Concerns about the competence or actions of an unregulated worker are generally directed to their employer.
- 92 Te Kāhui Kāhu also has a role in ensuring compliance with the SWRA 2003 in relation to title protection. They respond to concerns about anyone who is presenting or practising as a social worker but is not registered as a social worker.
- 93 Oversight of kaimahi working in community and iwi organisations is generally the responsibility of employers. They are responsible for ensuring their staff have the relevant training, skills and experience to be in working in their roles. There is limited oversight in terms of how they ensure their staff are competent and fit to practice; or oversight of what happens when concerns are raised about their staff.
- 94 Social workers¹⁷ and all social service providers, including social worker-like kaimahi working in health and disability services are subject to the duties and responsibilities under the Code of Health and Disability Services Rights (The Code). The Code grants a number of rights to all people using health and disability services in Aotearoa New Zealand. It places corresponding obligations on providers of those services. The Code became law on 1 July 1996.
- 95 The Health and Disability Commissioner does not look into practitioner behaviour, rather their focus is on the overall health service provided. There is no analogous organisation in the social services sector.

There are ongoing public safety concerns

- 96 The work on better understanding social worker-like roles is happening within the context of ongoing concerns about the professionalism and safety of the social sector workforce and the consequences, often for children and young people. This wider context includes:

¹⁶ There is a gap in the system where the agencies may elect to not use social sector accreditation in their contractual requirements. Te Kāhui Kāhu has noted that there have been some instances where providers have had conditions placed on them and/or significant safety concerns have been raised but agencies have chosen to keep funding them.

¹⁷ Social workers working in the health sector are also still subject to the SWRA 2003 and Code of Conduct.

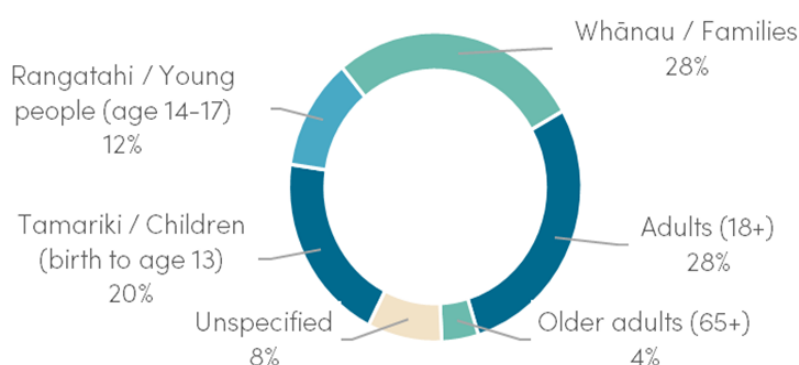
- Royal Commission of Inquiry into Abuse in Care interim reports
- the Independent Review of the Children’s System Response to Abuse by Dame Karen Poutasi
- Oranga Tamariki’s Rapid Review into Residential Care
- Oranga Tamariki’s Report on Abuse of Children and Young People in Care
- the Independent Children’s Monitor’s recent report Experiences of Care in Aotearoa 2022/2023.

97 Most recently the Ombudsman’s report Children in Care: Complaints to the Ombudsman 2019 – 2023 has flagged a number of concerns and recommends training and guidance for staff in good decision making, effective supervision and review processes, and quality assurance processes.

98 The RCOI noted in its interim report that harm is still occurring. The pending final report will likely identify gaps and system failures across the state sector.

99 To some extent issues raised in performance reports about Oranga Tamariki services may be indicative of the oversight in place compared to other parts of the sector. There are likely to be similar issues in the wider sector that are ‘under the radar’ as there is not the same level of oversight and monitoring.

100 Further a significant part of the sector sits outside of Oranga Tamariki’s services. For example, in the SWRB’s workforce survey, social workers identified their primary client groups as whānau/families (28 percent), adults aged 18 and over (28 percent). Tamariki/children are the primary client group for 20 percent of social workers. The primary focus of practice for social worker-like kaimahi is likely to be similar given the overlap of the workforces.



There is no robust complaints data about social worker-like kaimahi

101 There is no independent complaints data or external oversight/accountability of social worker-like kaimahi workforce/s. Information gathered about concerns or professional behaviour tends to be ad hoc and anecdotal. This is the case for most of the social services sector workforce.

102 There is no reason to assume that the practice of the unregulated workforce would be less likely to be unprofessional or unsafe than for registered social workers.

103 However, because there is no independent complaints data, there is no way of knowing the number or nature of concerns or complaints about professional or personal behaviour and whether these are being dealt with appropriately. Concerns are handled by employers.

104 Through our complaints and disciplinary roles, the SWRB is aware of issues of serious misconduct¹⁸ by social workers, who to avoid disciplinary action and oversight, take up social worker-like roles (that do not require them to be registered). Their new employer may have no knowledge of this prior behaviour.

¹⁸ Such as entering relationships with clients/past clients in the youth and mental health facilities.

Complaints about social workers are likely to be a proxy for social worker-like kaimahi

105 Social workers are required to uphold professional standards of integrity and conduct and be competent to practise. These standards are outlined in the SWRB's Code of Conduct and Core Competence Standards. Anyone can raise a complaint about a registered social worker's professional or personal conduct to the SWRB. In 2022/23, approximately 200 concerns (including mandatory reports by employers and self-declarations) were raised. These concerns included:

- dissatisfaction with the service provided
- concerns around the professionalism of a social workers' behaviour
- sexual/inappropriate relationships with clients
- breaching client privacy
- working outside of their professional boundaries
- dishonest practices
- inaccurate record-keeping.

106 We believe that there will be similar breaches of trust and concerns involving social worker-like kaimahi, and indeed the wider social sector. However, data and system constraints mean we do not know the size of the problem in the unregulated sector.

107 Concerns about staff conduct and practice continue to be the subject of many reports and reviews, e.g. the Poutasi Review, Oranga Tamariki's Rapid Review into Residential Care, Oranga Tamariki Report on Abuse of Children and Young People Care. Most recently (February 2024), the Ombudsman reported that his office has received over 2,000 complaints about Oranga Tamariki since 2019, with increases year on year.

108 The final report of the Royal Commission of Inquiry into Abuse in Care, which will be comprehensive and is due to be published shortly.

Transparency around social worker roles and trust in the profession

109 In 2023 the SWRB commissioned research¹⁹ on public trust in social workers to establish a baseline understanding of levels of trust, so that we can measure our effectiveness as a regulator going forward.

110 In summary, people's knowledge of social worker registration and accountability showed that 45 percent of respondents knew 'nothing at all' or 'a little' about what social workers do. In terms of trust, only 44 percent of respondents had 'full' or 'some' trust in the profession. 'Full' trust (13 percent) is comparable to professions such as psychologists, counsellors, therapists and youth workers (17-11 percent) but is much lower than for teachers (23 percent) or health workers such as doctors and nurses (41 percent).

111 We consider it unlikely that the public differentiates between registered social workers and social worker-like kaimahi. The low levels of trust in the profession are of note and are likely to be due to a range of factors, for example media attention when things go wrong, and the involuntary nature of social worker involvement in family circumstances such as uplift of children, which will be distressing regardless of the quality of the work.

¹⁹ Public Trust in Social Workers by Research NZ. This research involved over 1,000 people, has a 95% confidence level with a 3-4% margin of error. We oversampled so that 50% of our sample identified as Māori or Pacific Peoples, which gives extra reassurance that the results represent those communities.

Increasing public protection under the SWRA 2003

112 As part of this project, we have assessed our legislative settings to understand available opportunities within existing legislation for strengthening public safety. Our analysis of the Act has explored:

- the relationship between registration and the Act's purpose (s.3)
- how the components of registration (as amended in 2019) provide the Board with a mechanism for broadening registration with suitable restraints in place to protect the safety of the public; and
- how that mechanism could be applied to social workers in specific fields of practice, or in the apprentice phase of their career.

113 Analysis of existing legislative settings shows²⁰ there are options to improve safety through increased regulation of workers in social worker-like roles.

Registration and the purpose of the Act

114 Regulatory oversight through registration is the key mechanism for ensuring the primary purposes of the Act (protecting the safety of members of the public and enhancing the professionalism of social workers) are met. The purpose provision is unambiguous about this; the safety of the public is protected through the Act's provision or prescription of mechanisms to ensure that social workers are qualified, competent, and fit to practise. This stands to reason – a person providing social work services who is not registered cannot be scrutinised by the Board – and unregistered people may provide social work services so long as they do not call themselves a 'social worker' or occupy a 'social worker' position.

Components of registration

115 The components that make up the registration mechanism are (ss.6,7 and 13):

- Scopes of practice
- any general or specific conditions imposed on practitioners
- prescribed or equivalent qualifications
- competence
- fitness to practice
- competence to practice with Māori and other ethnic groups
- enough practical experience in practicing as a social worker.

116 It is arguable that the registration mechanisms could have been applied differently prior to 2021 to register a broader range of social workers. There were, however, significant regulatory impediments to this occurring, most notably the absence of scopes of practice. There may also have been other impediments; given that registration was voluntary it is possible that motivation to seek registration, had it been open to a wider class of workers, may have been limited.

117 Changes to the Act in 2019, (most of which came into force in 2021) have fundamentally changed the bandwidth of practitioners who could be considered social workers. Importantly, scopes of practice were introduced into the legislation. The power to place general conditions on registration of classes of social workers is a flexible and powerful tool available to the Board when considering how registration can be promoted to fulfil the purpose of the Act. (s.8H).

118 The introduction of scopes of practice and general conditions underpins the greater opportunity given to the Board to register practitioners who were previously excluded from registration under the Act. By empowering the Board to create multiple scopes it enables the registration of

²⁰ Relevant sections are set out in Appendix 3.

those persons who might not yet justify practising under the full scope of practice but who are able to practice social work within a specific field or in an apprentice social worker capacity²¹.

119 Each scope of practice issued under s.5A can have its own prescribed qualifications and competence assessments, which will be proportionate and relevant to the scope of practice that the applicant is seeking to be registered under. Within any particular scope of practice, general conditions (s.8H) can be applied, acknowledging that public safety and professionalism require some registrants to be subject to more limitation or oversight than others. Attached as Appendix Three is a discussion of the key provisions in the Act that apply to registration and the exercise of the Board's powers in relation to registration.

Prescribed qualifications

120 The current list of prescribed qualifications required for registration under the Act, apart from some historic and now defunct diploma qualifications, are primarily bachelor's degrees in social work. There is nothing in the Act to suggest that limiting qualifications to bachelor's degrees or postgraduate master's in social work is the only appropriate means of prescribing suitable qualifications. Indeed, with the introduction of scopes of practice, one would expect to see different qualifications prescribed for different scopes of practice.

121 The word 'qualification' is used in the Act without any limiting language. This strongly indicates a very broad discretion. By comparison, the Health Practitioners Competence Assurance Act 2003²² lists what a prescribed qualification must be. It is helpful to set the list out in full:

- a degree or diploma of a stated kind from an educational institution accredited by the authority, whether in New Zealand or abroad, or an educational institution of a stated class, whether in New Zealand or abroad;
- the successful completion of a degree, course of studies, or programme accredited by the authority;
- a pass in a specified examination or any other assessment set by the authority or by another organisation approved by the authority;
- registration with an overseas organisation that performs functions that correspond wholly or partly to those performed by the authority;
- experience in the provision of health services of a particular kind, including, without limitation, the provision of such services at a nominated institution or class of institution, or under the supervision or oversight of a nominated health practitioner or class of health practitioner.

122 All these options are available to the Board²³. The list is comprehensive in that it contemplates degrees, diplomas, bespoke examinations, courses of study, programmes, and, without limitation, practical experience in the provision of health services. Conditions may be placed on registrants as to ongoing training, and whether any further qualification may move them from provisional registration to full registration under that scope and/or progression to a broader scope of practice.

The Act allows the Board to increase the catchment of social workers

123 Using additional scopes and conditions of practice, the Board can increase the catchment of registrable social workers to include social worker-like kaimahi (category 3 – which includes 1,400 workers). The most obvious means of achieving this would be for the Board to develop a specific scope of practice for social worker-like kaimahi, together with bespoke prescribed

²¹ It also enables specialist social workers to have their own scope of practice beyond their admission under the general scope of practice.

²² Section 12, Health Practitioners Competence Assurance Act 2003. One or more of these classes of qualification may be required for any particular scope of practice.

²³ The references to overseas qualifications and registrations sitting under s.7.

qualifications and competency standards. All of these would be developed by the Board and published as secondary legislation.

124 Registering social worker-like kaimahi would have an immediate impact on public safety settings by ensuring people in social worker-like roles are fit to practice and competent. There are other benefits that could be explored and may also be relevant to MSD's proposed work on wider social work sector over time, such as:

- Recognising alternative pathways and addressing barriers into the social work profession by providing an opportunity for career progression in terms of qualifications and scope for those who want to. There is the potential for this approach to replace the current section 13 experience pathway, with a more enduring and targeted approach benefiting indigenous practitioners. This would also support overseas applicants transitioning into social worker roles. Broadening pathways could contribute to reducing the current workforce shortage.
- Embedding workforce safety mechanisms to support communities to take a greater role in working with and supporting their own people, e.g. through increased devolution of services.
- Recognising the mana, skills and experience of social worker-like kaimahi by recognising their expertise and area of practice, for example kaupapa Māori kaimahi scope of practice.
- Ensuring diversity of practitioners, reflecting the diversity and needs of communities.
- Bespoke qualifications including recognising relevant experience, developed over time that can be achieved through 'learn while you earn' approaches.
- Closing a safety loophole that allows social workers facing disciplinary action to get social worker-like roles, to avoid oversight and accountability.
- Reducing the risk of harm to clients and the cost of addressing that harm at a later stage.

The SWRB may have the levers to implement these changes but would need support

125 While the SWRB has the levers to carry out this work, it will require additional policy resource and support to implement these changes. This would include developing additional scopes of practice, prescribed qualifications and possibly conditions of practice. Attached as Appendix Four is a case example of how registering social worker-like kaimahi as social workers under a new scope of practice might work in the future.

126 MSD's role as administrator of the SWRA and in the wider social sector mean that it would be appropriate for it to support SWRB with any further policy work. MSD has a role in assessing and advising on any system related impacts from proposed changes.

Approaches in other jurisdictions could inform policy work

127 To support this work, we commissioned MartinJenkins to look at how public safety is addressed in analogous professions in New Zealand, and in social worker-like professions internationally.

128 Your Office will be provided with the full MartinJenkins report: *Addressing Public Safety for Category 3 Workers (Social Work-Like Kaimahi)*. Appendix Five (a) includes a diagram which illustrates regulatory approaches depending on the risk of harm and is followed by Appendix Five (b) a summary of each of the countries and professions included in the review.

129 The work involved:

- a desktop review of regulation and interventions for professions in England, Wales and Ontario, Canada, and regulation of engineering associates, legal executives, and enrolled nurses in New Zealand
- a brief literature review

- discussions with occupational regulation policy officials at the Ministry of Health and Ministry of Business, Innovation and Employment.
- 130 There is a wide variety of approaches used to address risk of harm in occupational practice both in New Zealand and abroad. Approaches vary in:
- form – self-regulation, direct statutory regulation, co-regulation, and meta-regulation
 - regime type – disclosure, registration, certification, licencing, or accreditation
 - use of interventions – providing information to consumers, training practitioners, setting and enforcing standards, specifying the services government will purchase, and organisational performance monitoring and management.
- 131 In summary, approaches to social worker-like professions in other jurisdictions, which could inform further policy thinking, include:
- England – Social Work England regulates social workers. The Care and Quality Commission regulates providers (rather than the worker) in both the health and social care sector.
 - Wales – Social Care Wales registers social workers and social care workers.
 - Ontario, Canada – Ontario College of Social Workers and Social Service Workers is the regulator. There is also legislation to restrict titles, e.g. Social Worker/Registered Social Worker (generally holders of a degree of Social Work or higher) and Social Service Worker/Registered Social Service Worker (generally holders of a two-year certificate in social services).
- 132 Another model that takes a broader social service approach is the Scottish Social Service Council, which is the regulator for the social work, social care, and children and young people workforce in Scotland. The Council sets standards of practice, conduct, training and education, and supports professional development. Where concerns are raised about the standard of practice or conduct, they investigate and take action. Over 208,000 workers are within its remit.
- 133 MartinJenkins suggested further policy work to better understand:
- What interventions are proportionate and warranted, depending on further work to understand and build an evidence base on the size and scale of the policy problem – the risk posed by social worker-like kaimahi. They acknowledged that the policy problem definition may closely align with that of social workers in terms of the nature of the risk that can arise from social work practice.
 - The definition of category 3 workers. As outlined earlier, qualifications, competencies and standards vary. They may not be a cohesive enough profession to be suitable for regulation. This is an area that MSD’s proposed policy work could consider further.
 - The costs versus the benefits of further regulation (acknowledging that the costs may outweigh the benefits). Benefits could include avoidance of significant harm and costs related to unsafe practice. These are difficult to confirm due to a lack of cross-agency data and information sharing (as discussed earlier), and the benefits are often intangible, or non-financial. These need to be weighed against costs to government and service users, noting that many social worker-like kaimahi are low paid. Regardless, further articulation of the costs and benefits needs to be considered to determine what interventions might be proportionate and warranted to mitigate risk.
 - Existing mechanisms should be assessed to the extent they already address the risk to public safety. Existing mechanisms could be further tested as to whether they could be used or modified, to manage risks in relation to social worker-like kaimahi, for example:
 - Te Kāhui Kāhu and whether requirements are sufficient to provide oversight and monitoring
 - The requirements in place for registered social workers, and whether for example, supervision of social worker-like kaimahi should be/could be specified in existing legislation or regulation.

134 There are several connections between the policy work recommended by MartinJenkins and MSD's proposed policy work on the broader social service workforce to assess existing system settings and any opportunities to strengthen these. SWRB supports this policy work and, if agreed, will continue to work with MSD to ensure both pieces of work continue to complement each other.

Further work and next steps

135 We know from our engagement process that many kaimahi in social worker-like roles are doing substantially similar work to registered social workers. Our initial analysis of the SWRA 2003 suggests there is potential to register social worker-like kaimahi using existing legislative levers to develop additional scopes of practice with corresponding qualifications/experience and/or the use of conditions. We would require additional resource and policy support to complete the necessary planning, engagement and delivery. This could include leveraging MSD's system-policy functions for example as the administrative agency for the SWRA and its policy role across the wider social sector.

136 We consider there would be significant public safety benefits to registering social worker-like kaimahi under a different social worker scope of practice, relative to their qualifications and experience. This would also support the Board to broaden entry pathways into social worker roles. However, further policy work is required by the SWRB and MSD to fully respond to the challenges faced by the social worker sector, including workforce shortages, barriers to social worker registration, and increasing diversity of the social worker workforce.

137 While the SWRB has the levers to increase the catchment of registrable social workers, we would support further work to:

- Further articulate the size and scale of the risk to public safety to the extent that is possible. Our work indicates that there is a risk to public safety and a case for greater oversight of these workers who are doing substantially the same work as registered social workers.
- Define this group of workers as they do not necessarily fit an occupational scope.
- Consider the financial and non-financial costs and benefits of further regulation. The benefits include reducing significant harm and the long-term costs of poor practice on individuals and communities. This needs to be weighed against the costs of additional regulation for this group, bearing in mind that regulation is a continuum, and social worker-like kaimahi may not require the full suite of regulatory activities – they could for example be listed on a public register.
- Explore whether existing safety mechanisms for social worker-like kaimahi and indeed the kaimahi in the wider social services sector are enough to protect vulnerable individuals and communities, or whether existing mechanisms and settings need to be modified and strengthened.
- Consider options to improve social sector workforce data.

138 Consideration of additional scopes of practice would also require careful engagement and communication with the social worker sector. With mandatory registration there has been a drive towards increased professionalism of the social worker workforce. The purpose of any additional intervention would be to increase the safety and mana of the social worker-like workforce, not to diminish or devalue social workers operating under the current scope of practice or seeing a merger of social work and other roles.

139 The SWRB Chief Executive and Board Chair would welcome the opportunity to discuss this work with you.

Appendix One – Engagement with the social work and broader sector between March 2023 and February 2024

See separate report.

Appendix Two – Discussion of workforce data limitations

140 For social worker-like kaimahi (category 3) there is no defined occupational scope for this group of workers, although their work has been identified as involving:

- the use of te ao Māori and/or social work theoretical frameworks and methods alongside other practice frameworks to support working in a role substantially similar to social work
- working with high levels of supervision or sign-off requirements for any clinical decision making
- being strongly connected to and accountable to the community
- using a body of knowledge for a specific context, e.g. homelessness.

141 There are a number of difficulties in defining this group through national occupational classification systems, which for New Zealand is the Australian and NZ Standard Classification of Occupations (ANZSCO V1.3). ANZSCO is a skills-based classification used to categorise all occupations and jobs in the Australian and New Zealand labour markets. It provides a standardised way of defining occupations based on tasks performed as part of a job. It classifies occupations into a schema based on skill, but does not take registration into account, or the range of other occupations performing similar work to social work. It is also unable to disaggregate the numbers of people in an occupation working in different industries, or sub-industries. For example, distinguishing between those performing work in organisations predominantly delivering social work services versus those delivering services in the wider social services sector, some of which might involve social work.

There are no consistent estimates of the size and composition of the sector

142 Over time, estimates of the size of the sector have largely focused on the health sector, rather than the social services sector. In summary, estimates in the public domain include:

- In 2013, in a report for Careerforce, Business and Economic Research Limited (BERL) estimated there were 62,910 people in the non-regulated broader health workforce employed in the health sector, working as professionals, technicians, support workers, and carers.
- The 2015 Health of the Health Workforce report reported on a survey of 76 providers of Home and Community Support Services asking about their kaiāwhina workforce. 33 responses were received from a mix of small and large providers, identifying a total of 11,288 support workers.
- The Care and Support Workers Pay Equity Settlement Agreement of 2017 covered 55,000 care and support workers in New Zealand's aged and disability residential care and home and community support services.
- In 2020, a report prepared for the Health Workforce Advisory Board estimated that in December 2019 there were 246,500 people employed in health care and the social assistance sector, including 33,400 employed in social assistance services. Noting the difficulties in sizing the unregulated workforce, they suggested an estimate of between 49,000 and 110,000 for the unregulated workforce.

143 The JB Were 2021 New Zealand Cause Report, which analysed registered charities including health and social service charities²⁴, suggests that:

- The top 10 social service organisations by income employ around 4289 people.
- An additional 2604 are employed by the top 10 (by income) community development organisations.

²⁴ Noting that some of these charities appear to be the charitable arms of profit-making businesses.

- Approximately 16,986 are employed by health-related organisations.
- Around 870 are employed by organisations working in the employment and training area.
- Approximately 8,232 are employed by disability related organisations.

144 The above summary demonstrates the lack of robust and consistent data about the size and composition of the non-regulated workforce across health and social services.

145 We would support ongoing calls for better workforce data to improve the functioning of the sector. There are a range of options varying in scope and scale, for example:

- Building on existing data provided by community and iwi organisations about their social worker-like kaimahi.
- Additional focused research that is more structured and in-depth, particularly focused on understanding organisational practices – this could be a collaborative piece with Social Service Providers Aotearoa (SSPA).
- Building questions into the SWRB’s employer survey due later this year. The SWRB is still scoping this survey, but it is likely to explore the impact the shortage of social workers is having on recruitment decisions.

146 Social sector workforce survey – several reports have noted that NZ would benefit from a robust survey or census of health and social sector workforces including social workers, but also other non-regulated occupations such as Kaiāwhina in the health sector. This would likely require a budget bid and ideally would be carried out by Statistics New Zealand. The most immediate data needs identified²⁵ include:

- total number of employees on the payroll and FTEs
- job titles/occupations employed
- total number of employees by occupation by gender
- qualifications, where these are relevant to the work.

²⁵ As part of this work we sought advice from an independent researcher who has been working on the social sector claims for some years.

Appendix Three – Relevant Legislative Provisions

Section 3 – The Act’s Purpose

‘(a) to protect the safety of members of the public, by prescribing or providing for mechanisms to ensure that social workers are—

(i) competent to practise; and

(ii) accountable for the way in which they practise; and

(b) for the purposes of paragraph (a), to create a framework for the registration of social workers in New Zealand and determine their scopes of practice, and...

(d) to enhance the professionalism of social workers.’

Section 5A – Scopes of Practice

‘(1) The Board must, by notice, describe the social work services that are performed by the social work profession in 1 or more scopes of practice.

(2) A scope of practice and the services described in it may be described as the Board thinks fit, including in 1 or more of the following ways:

(a) by reference to a name or form of words that is commonly understood by persons who work in the social work services sector:

(b) by reference to an area of social science or learning:

(c) by reference to tasks commonly performed:

(d) by reference to individual, interpersonal, or community needs to be alleviated.’

This provision was inserted into the Act in 2019 coming into force in 2021. It is the lever that allows the Board to differentiate different aspects of social work and register social workers as practitioners under differentiated scopes. Currently, there is one scope of practice only; every social worker currently registered is registered under that one scope.

The provision accommodates future scopes that are based on areas of practice (e.g. community, mental health, child protection), specialist roles (e.g. teacher, senior practitioner) and can include social workers in the development stage of their career.

Section 5B – Prescribed Qualifications

(1) The Board must, by notice, prescribe the qualifications for each scope of practice that the Board describes under section 5A.

(2) When prescribing qualifications, the Board must be guided by the following principles:

(a) a qualification (either on its own or together with 1 or more other prescribed qualifications) must be necessary to protect the public:

(b) the number and types of qualifications prescribed for a scope of practice must not be so limited as to unnecessarily restrict the registration of persons as social workers:

(c) the qualifications (in total) prescribed for a scope of practice must not impose undue costs on persons seeking to be registered as social workers or the public.

The Board's power to determine the qualifications required to be a social worker has been in the Act since its inception. Along with the introduction of scopes of practice in 2019; prescribed qualifications are now directly related to scopes of practice. The Act anticipates that there will be different qualifications required for different scopes of practice.

This provision provides the Board with broad discretion to determine what the prescribed qualification for different scopes of practice might be. The current prescribed qualifications for the single scope of practice that exists are primarily bachelor's degrees; there is nothing to prevent the Board from prescribing different educational credentials or certain specified practical experience as prescribed qualifications as different scopes of practice are launched.

Section 8H – General Conditions

(1) The Board may, as it thinks fit, adopt any conditions to apply to the individual scopes of practice (see section 8A) of all social workers or all social workers of a particular description.

(2) The conditions may include a condition relating to supervision.

Section 8H was inserted in the Act in 2019. It permits the Board to place general conditions on social workers registered under a scope of practice or on social workers who fit within a general description within a scope of practice. As new scopes of practice are added this power is likely to be very useful in balancing the fact that there are new classes of social workers with prudent limitations on the social work that the registered person can perform under or within their scope.

It is also likely to be effective in charting a newly registered applicant's journey as a social worker. One could anticipate significant conditions being imposed on social workers with limited experience and those conditions becoming less restrictive as the social worker obtains more experience.

Appendix Four – Social worker-like registration case study

Maraku and Wati are brothers. After he leaves secondary school, Wati enrolls at Massey University seeking a Bachelor of Social Work with a view to obtaining registration under the general scope of practice. His elder brother Maraku has been working as an apprentice plumber since he left school and, by the time his younger brother commences his degree, has a partner and a young child and is looking to purchase a house. He has also been doing voluntary work for Manunui Social Services (MSS).

MSS provides a wide range of social work services to the local community. Amongst those services, is delegated care and protection investigation and assessment powers by Oranga Tamariki. It has children in its care under the Oranga Tamariki Act; both on its own account²⁶ and on behalf of Oranga Tamariki.

Paths to Registration

At the time Wati goes to Massey, Maraku is seriously considering a career change as he gets a huge amount of satisfaction from volunteering for MSS. He wants to be a social worker and MSS would love to have him as a social worker. However, his personal circumstances mean that doing a four-year degree is not feasible both from a financial and location perspective.

The Social Workers Registration Board has recently created a new scope of practice; kaimahi social worker. Becoming a social worker under this scope requires the achievement of prescribed qualifications specific to that scope. The key qualifications are working under a registered social worker for five years in an organisation certified by the Board as a high-quality provider of community social work services, and the achievement of certain academic credentials that can be obtained from a distance as one continues to work.

Maraku is employed as a community worker at MSS. He embarks on the journey to become a kaimahi social worker. He receives on-going, regular, high-quality supervision from a social worker. He is regarded as a very talented and capable worker; this is in no small part because he is so well-connected to, and, in return, regarded by his local community. He completes the requisite prescribed qualifications from King Country Social Work school and after five years employment successfully applies to be registered by the Board as a kaimahi social worker.

Wati has returned home having successfully completed his degree. He has successfully applied to the Board for registration as a social worker (provisional registration until he completes 2,000 hours of supervised social work practice) under the general scope of practice and is employed by MSS as a social worker.

After Registration

Wati's scope of practice enables him to provide the full range of social work services that are provided by MSS. This includes the care and protection investigative and assessment powers delegated by Oranga Tamariki. Because MSS is a prudent organisation, it is cautious in the responsibilities that it gives Wati; they are commensurate with his age and experience.

Maraku can undertake most of the social work services that MSS provide. Because he is vastly more experienced than his brother, he is able to engage in more challenging circumstances with more independence. However, his scope of practice does not permit him to undertake investigation and assessment work delegated by Oranga Tamariki.

In terms of future career options, Wati can work across the full spectrum of the social work sector. Maraku can work in and become a leader in the community sector and, with further prescribed qualifications less than a full degree, transfer into some other sectors.

²⁶ Child and Family Support Services can be direct custodian of children in care under the Oranga Tamariki Act 1989 (see s.101)

Public Safety

Wati and Maraku have a friend named Bobby. Bobby follows the path chosen by Maraku. He is registered as a kaimahi social worker at the same time as Maraku. A year or two later Bobby experiences some personal setbacks and develops a meth addiction. Consequently, his work deteriorates, and a number of complaints are made about him that raise both competence and fitness to practice issues.

Bobby resigns before any formal action is taken. He travels to Invercargill where he applies to be a kaimahi social worker at Newfield Social Services. However, his registration has been suspended by the Social Work Complaints and Disciplinary Tribunal pending formal consideration of the complaints made against him. This information is publicly available to Newfield and they decline to appoint him.

In the face of this formal action, Bobby voluntarily relinquishes his practicing certificate. Two years later, he has cleaned up, and later returns home and is re-employed by MSS when he successfully re-obtains a practicing certificate.

Appendix Five (a) – Regulatory approaches, depending on level of risk of harm (MartinJenkins work on approaches taken by other countries and professions)

		LOWER RISK OF HARM LOWER INTENSITY OF INTERVENTION	HIGHER RISK OF HARM HIGHER INTENSITY OF INTERVENTION
Form	Self-regulation	Establish a professional association body for category 3 workers New Zealand Institute of Legal Executives	
	Quasi-regulation	Influence outcomes through conditions on funding, such as accreditation Ministry of Social Development requiring Te Kāhui Kāhu accreditation for funding or contract	Endorse a code of practice or publish ratings of providers Care Quality Commission (England)
	Meta-regulation	Establish a new self-regulator and have oversight of it Professional Standards Authority (England)	Set service standards for providers and monitor this Care Quality Commission (England)
	Co-regulation	Support outcomes through other system interventions, like providing avenues for complaint and remedy Health and Disability Commission	Establish a new body for category 3 workers supported by legislation for enforcement of a code of practice Medical Council of New Zealand ; Social Workers Registration Board Professional Conduct Committee, and referral to independent Social Workers Disciplinary Tribunal
	Direct regulation		Provide the SWRB with the ability to regulate SWRB regulation of registered social workers
Regime	Register	Use a mandatory or non-mandatory register Proposed voluntary Engineering Associate register	Require registration Proposed professional engineers register; Social Care Wales; Ontario College of Social Workers and Social Service Workers
	Accreditation		Accredit service providers (organisations) Te Kāhui Kāhu and Care Quality Commission (England)
	Certification	Introduce a light-touch certification scheme Legal Executives or Bar Managers Certificate	Require certification Managers certificate, social service workers
	Negative licencing	Prohibit workers from practice if they have committed some form of offence deemed serious enough to warrant exclusion from the industry Oranga Tamariki vetting of workers; Disclosure and Barring Service (UK)	Licence Category 3 workers Licenced engineers
Interventions	Advocacy	Support consumer rights through advocacy Health and Disability Commissioner	
	Education and training	Offer and fund voluntary trainings Australian Association of Social Workers voluntary certification courses	Set standards for minimum education and training Social service workers (Ontario), enrolled nurses
	Management and funding	Explore how other interventions or factors influence outcomes eg, overall level of resourcing or service models. Employers check qualifications, convictions; use job descriptions; management of competency. Ensure management and funding is at a level that achieves risk outcomes	NGOs, social services providers. Te Kāhui Kāhu accreditation checks whether the organisation can financially support itself; Care Quality Commission (England) which checks sufficient staffing levels and support.
	Oversight and supervision	Ensure providers and/or social workers practice oversight and supervision of category 3 workers NZ Nurses Organisation Guidance	Require providers to ensure appropriate oversight and conduct checks and audits Care Quality Commission (England) checks employers are ensuring sufficient supervision of employees.
	Standards, guidance and expectations	Provided guidance expectations to service providers and registered social workers on supervision, and use voluntary codes of conduct Guidance to nurses for supervising unregulated healthcare workers (NZNO)	Set practice standards Social care workers (Wales), social service workers (Ontario), enrolled nurses, engineers, legal executives

Appendix Five (b) – MartinJenkins Case studies

International

Social care providers, England

Regulation	Regulation of care providers, including social care provided by local authorities and care provided by the National Health Service (NHS).
Regulator	Care Quality Commission (CQC)
Legislation	Health and Social Care Act 2008 – legal framework for the organisation and delivery of social care.
What is regulated?	<p>Designated regulated activities.</p> <ul style="list-style-type: none"> Any organisation carrying out any of these activities is required to register with the CQC, and to have a registered manager for each regulated activity it undertakes. Regulated activities include the provision of personal care and the provision of residential accommodation together with nursing or personal care.
Standards and requirements	<p>Regulations under the 2008 Act create a wide range of legal duties on those carrying out ‘regulated activities’. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (as amended) are pivotal, and contain, a series of ‘fundamental standards’ for care. These include three which relate specifically to workers:</p> <ul style="list-style-type: none"> Regulation 12(2)(c), which is about safeguarding. Persons providing care or treatment to service-users have the qualifications, competence, skills, and experience to do so safely. Regulation 18, which relates to staffing. Sufficient numbers of suitably qualified, competent, skilled, and experienced persons must be deployed. Employers must ensure that employees receive adequate training, support, professional development, supervision, and appraisal to carry out their role. Regulation 19, which imposes an obligation to ensure that ‘fit and proper’ persons are employed to provide care. This means that the person must be of ‘good character’, have the qualifications, competence, skills, and experience necessary for them to perform their role, and be physically and mentally capable of carrying out tasks intrinsic to the role (after reasonable adjustments are made if relevant).
Education, training, and CPD	The key training requirement for social care workers in England is an adequate induction.
Monitoring and oversight	<p>The CQC monitors and inspects services according to every aspect of the legal duties imposed by the Regulations.</p> <p>Ensuring the fitness of care workers is achieved through a combination of inspections at establishments by the CQC and the provision of pre-recruitment checks on workers by the Disclosure and Barring Service (DBS).</p>

	<p>The CQC may carry out routine comprehensive inspections of adult social care services or focused inspections in response to a particular concern being raised. Inspections are based on five key questions: is the service safe, effective, caring, responsive, and well-led? Following an inspection, the CQC will rate the service ‘outstanding’, ‘good’, ‘requires improvement’, or ‘inadequate’.</p>
Enforcement	<p>No sanction is prescribed under the Regulations. A breach of the Regulations is not a prosecutable offence in law. However, breach of Regulation 12(2)(c) is an offence if avoidable harm results, or if a service-user is exposed to a significant risk of harm.</p>
Related regimes	<ul style="list-style-type: none"> • Disclosure and Barring Service. • The Professional Standards Authority regulates self-regulators in the health and social care profession as a meta-regulator. • Social work is regulated.
Evidence of effectiveness	<p>In July 2022, the Department of Health and Social Care conducted a post-implementation review of three sets of regulations made under the Health and Social Care Act 2008. These regulations are:</p> <ul style="list-style-type: none"> • Care Quality Commission (Registration) Regulations 2009 • Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, and • Care Quality Commission (Reviews and Performance Assessments) Regulations 2018. <p>The Department sought feedback from all providers of a regulated activity that are registered with the CQC in England to determine:</p> <ul style="list-style-type: none"> • whether all three regulations meet their original objectives • whether their scope is still appropriate and proportionate • their impact on providers, and • whether any changes are required to achieve those objectives with a system that imposes less regulation or to change what the regulations prescribe. <p>The consultation received few responses – not enough to generalise responses as indicative of the whole health and social care sector. The responses were fed into a wider piece of work by the Department to review and assess proposal to amend regulations relating to CQC’s oversight of regulated activities.²⁷</p>
Application to New Zealand	<p>This would involve expansion of the role and scope of Te Kāhui Kāhu (TKK), operating as the CQC. TKK would monitor and inspect social services organisations.</p>

²⁷ Department of Health and Social Care (July 2023). *Consultation outcome: Post-implementation review of regulations relating to the Care Quality Commission*. [Post-implementation review of regulations relating to the Care Quality Commission - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/post-implementation-review-of-regulations-relating-to-the-care-quality-commission)

Social care workers, Wales

Regulation	Regulation of social care workers.
Regulator	<p>Social Care Wales, the body responsible for maintaining the register, developing the workforce, and overseeing fitness to practise procedures, including disciplinary hearings.</p> <p>Social Care Wales has the objective of protecting, promoting, and maintaining the safety and wellbeing of the public in Wales, as well as promoting and maintaining high standards in the provision of care and support services, as well as in the conduct and practice of social care workers.</p>
Legislation	Regulation and Inspection of Social Care (Wales) Act 2016 - under section 4 of this Act, the general objectives are to 'protect, promote and maintain the safety and wellbeing of people who use regulated services' and to 'promote and maintain high standards in the provision of regulated services'.
Who is regulated?	<p>Any person who provides a regulated service must be registered. It is an offence to provide a regulated service without being registered. The definition of social care workers is set out in section 79(1) of the 2016 Act, as being a person who:</p> <ul style="list-style-type: none"> • engages in relevant social work (social workers) • manages a place at or from which a regulated service is provided • in the course of his or her employment with a service provider, provides care and support to any person in Wales in connection with a regulated service provided by that provider, or • under a contract for services, provides care and support to any person in Wales in connection with a regulated service provided by a service provider. <p>Social care workers, required to be registered with Social Care Wales, include:</p> <ul style="list-style-type: none"> • residential childcare managers and workers • adult care home managers • domiciliary care managers, and • domiciliary care workers.
Standards and requirements	To register with Social Care Wales, a person must demonstrate that they have the right knowledge and skills, are physically and mentally fit to practice, have the character and competence to perform the relevant role, and that they agree to follow the Code of Professional Practice for Social Care.
Education, training, and CPD	<p>The qualifications required to register as a social care worker vary depending on the role that the individual is registered for.</p> <p>Following registration, all registered social care workers are required to complete 15 days or 90 hours of training and learning during each three-year period of registration.</p>

<p>Monitoring and oversight</p>	<p>Social Care Wales has a whistleblowing and complaints function and can conduct investigations.</p>
<p>Enforcement</p>	<p>Section 111(2) of the 2016 Act makes it a criminal offence for any person in Wales who is not a registered social care worker to take or use the title ‘social care worker’, or to imply they are registered, or to pretend to be a social care worker with intent to deceive another.</p> <p>Social Care Wales can suspend a worker or set conditions.</p>
<p>Related regimes</p>	<ul style="list-style-type: none"> • Education Workforce Council (EWC) is the independent regulator in Wales for youth workers. Since April 2017, youth support workers and youth workers who provide services for or on behalf of a local authority, school, further education institution, or voluntary organisation in Wales and who hold qualifications set out in the Welsh Government legislation need to be registered with the EWC. • Organisations carrying out regulated services are required to be registered with the Care Inspectorate Wales (CIW). The CIW has powers to prosecute for providing a regulated service without being registered to do registered and inspection powers.
<p>Evidence of effectiveness</p>	<p>The Welsh Government commissioned an evaluation of the implementation of the Social Services and Well-being (Wales) Act 2014²⁸, but it has not undertaken an evaluation of the Regulation and Inspection of Social Care (Wales) Act 2016.</p> <p>There have been subsequent amendments to regulations:</p> <p>2020: to mandate the registration of domiciliary care workers from 1 April 2020 and the requirement for service providers to only employ those who are registered with SCW.²⁹</p> <p>2022: to mandate the registration of social care workers in adult care homes and family residential centre services from 1 October 2022 as well as a requirement on service providers to only employ those who are registered.³⁰</p>
<p>Application to New Zealand</p>	<p>Social Workers Registered Board (SWRB) would register social workers and category 3 workers. Service providers would only be allowed to employ and/or engage under a contract for services only those individuals who are registered with SWRB.</p> <p>Te Kāhui Kāhu (TKK) would operate like Care Inspectorate Wales. Social services organisations would need to be registered with TKK. TKK would have powers to prosecute organisations who employ unregistered workers.</p>

²⁸ Welsh Government (2023). Evaluation of the Social Services and Well-being (Wales) Act 2014. <https://www.gov.wales/evaluation-social-services-and-well-being-wales-act-2014-overview>

²⁹ Department of Health and Social Services (2020). Welsh Government integrated impact assessment summary: Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020 <https://www.gov.wales/sites/default/files/publications/2020-02/regulation-and-inspection-of-social-care-wales-act-2016-and-regulated-services-miscellaneous-amendments-regulations-2020.pdf>

³⁰ Department of Health and Social Services (2022). Impact assessment: Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2022 ('the 2022 Regulations'). [mandatory-registration-of-adult-care-home-workers-integrated-impact-assessment.pdf](https://www.gov.wales/mandatory-registration-of-adult-care-home-workers-integrated-impact-assessment.pdf) ([gov.wales](https://www.gov.wales))

Social service workers, Ontario, Canada

Regulation	Regulation of social service workers
Regulator	Ontario College of Social Workers and Social Service Workers
Legislation	Social Work and Social Service Work Act, 1998
Who is regulated?	<p>The Act restricts the use of Social Service Worker and Registered Social Service Worker title (generally, holders of a two-year certificate in social services from a community college).</p> <p>Social service workers assist clients in dealing with personal and social problems by delivering counselling, community services, and social support programs.</p> <p>Regulations under the Act define the role of a social service worker as: ‘a person who assesses, treats, and evaluates individual, interpersonal and societal problems through the use of social service work knowledge, skills, interventions, and strategies, to assist individuals, dyads, families, groups, organizations and communities to achieve optimum social functioning.’</p> <p>The scope of practice for social service work is defined here: https://www.ocswssw.org/sop/scope-of-practice-for-social-service-work/</p> <p>Individuals who use the protected titles illegally or who hold out as if they are a social worker or a social service worker are considered unregulated practitioners and put the public at risk. The College publishes a list of individuals who are not registered members of the College.</p>
Standards and requirements	The College sets standards of practice and ethics. These cover scope of practice, relationships with clients, competence and integrity, responsibility to clients, the social service work record, confidentiality, fees, advertising and communication, and sexual misconduct.
Education, training, and CPD	<p>The formal training for a social service worker is an approved diploma from a two-year program (or accelerated equivalent) offered at an Ontario College of Applied Arts and Technology (CAAT); students will spend approximately 500 – 700 hours in field placement throughout their programme or have a combination of academic qualifications and experience that is substantially equivalent to a social service worker diploma.</p> <p>The Continuing Competence Program (CCP) is mandatory for all registrants of the College. The CCP promotes quality assurance for the practice of the professions of social work and social service work and encourages registrants to enhance their practice in an ongoing way. This is one way the College fulfils its mandate of public protection.</p> <p>The College also oversees professional qualifications and certification.</p>
Monitoring and oversight	The College maintains a registry of members, receives mandatory reporting from employers, and receives and investigates complaints.

Enforcement	The College disciplines members for professional misconduct or incompetence.
Evidence of effectiveness	<p>In 2005, the Ministry of Community and Social Services (MCSS) conducted a 5-year review of the Social Work and Social Services Work Act 1998. The review posed two questions:³¹</p> <ul style="list-style-type: none"> • Are the provisions in the Act adequate for achieving the objectives of the Act (such as public protection, quality social work and social service work services, and accountability)? • What changes to the Act, if any, should be considered by the government to improve the operations of the College in carrying out its roles and responsibilities? <p>97 submissions were received and there were three key Ministry positions resulting from the consultation:³²</p> <ul style="list-style-type: none"> • The College to retain responsibility for defining scopes of practice in its by-laws and may amend the by-laws in response to the professions’ needs. • To not support scope of practice to be explicitly defined for both social workers and social service workers in the Act. • To not change the governance model. Currently the Act dictates that there are seven elected social workers, seven elected social service workers, and seven public appointees on the College Council. Some stakeholders would like to increase the social worker representation on the College Council to better reflect their 90% membership or establish separate colleges for the two professions. At that time, there were 10,000 social workers and 1,000 social service workers registered. The Ministry believed that there would be growth in social service workers over time.
Application to New Zealand	<p>Category 3 workers would be required to register with the Social Workers Registration Board (SWRB).</p> <p>SWRB would publish a list of people who are not registered social workers or registered category 3 workers.</p> <p>Title protection and negative registration.</p>

³¹ Ontario Ministry of Community and Social Services (2005). Review of the Social Work and Social Service Work Act 1998 – discussion paper. [Microsoft Word - SWConsultation Paper-revised 3 oct25 DR RL.doc \(ocswww.org\)](http://www.ocswww.org)

³² Ontario Ministry of Community and Social Services (2006). Review of the Social Work & Social Service Work Act, 1998. http://www.mcscs.gov.on.ca/NR/rdonlyres/44CCCD1D-A60C-440B-B646-EF98047E9296/649/minReport_en_SWSSWA.pdf

Domestic, analogous workforces

Enrolled nurses

Regulation	Regulation of enrolled nurse
Regulator	Nursing Council – the Council’s statutory role is to protect the health and safety of the public, and the scopes that describe the profession are part of the foundation for that protection.
Legislation	Health Practitioners Competence Assurance Act 2003 (the Act)
Who is regulated?	<p>Enrolled nurses:</p> <ul style="list-style-type: none"> • Enrolled nurses practice under the direction and delegation of a registered nurse or nurse practitioner to deliver nursing care and health education across the life span to health consumers in community, residential, or hospital settings. • Enrolled nurses are accountable for their nursing actions and practise competently in accordance with legislation, to their level of knowledge and experience. They work in partnership with health consumers, families, whānau, and multidisciplinary teams.
Standards and requirements	<p>Enrolled nurses must:</p> <ul style="list-style-type: none"> • demonstrate competency against the Council’s Competencies for the enrolled nurse scope of practice • be deemed to be fit for registration (section 16, Health Practitioners Competence Assurance Act 2003), and • complete the 18-month diploma of enrolled nursing (level 5 on the New Zealand Qualification Authority framework).
Education, training, and CPD	<p>Under the Health Practitioners Competence Assurance Act 2003, students seeking registration as an enrolled nurse must meet the following requirements:</p> <ul style="list-style-type: none"> • complete the theoretical and clinical experience requirements of an accredited programme in the enrolled nurse scope of practice, and • pass the State Final Examination for enrolled nurses. <p>The Council has a statutory role in determining if students can be registered.</p>
Monitoring and oversight	<p>The Council receives complaints and concerns about nurses and will investigate where necessary.</p> <p>The HDC provides an alternative avenue.</p>
Enforcement	When a nurse fails to meet the required standards of nursing, the Council will investigate and depending on the nature of the issue either aid them in meeting the standards or, if necessary, follow disciplinary processes.
Related regimes	<ul style="list-style-type: none"> • Registered Nurse • Nurse Practitioner • Health and Disability Commission
Evidence of	In December 2022, the Nursing Council released a consultation document to review the enrolled nurse scope of practice. The Council

effectiveness	<p>wanted to ensure that the scope of practice reflects contemporary and emerging research, policy, and best regulatory practice.³³</p> <p>In October 2023, the Nursing Council sought views on proposed changes to the nursing education programme standards leading to registration as an enrolled nurse.³⁴ This was required to support the broadened scope of practice that resulted from the scope of practice review.</p>
Application to category 3 workers	<p>Category 3 workers would be registered with SWRB with a corresponding scope of practice, and detailed competencies and education standards. Mechanisms for registration, monitoring, and complaints would need to be established and implemented.</p>

³³ Nursing Council of New Zealand. (2022). Consultation document: Review of the enrolled nurse scope of practice statement. [EN Scope Statement Consultation \(nursingcouncil.org.nz\)](https://www.nursingcouncil.org.nz/en-scope-statement-consultation)

³⁴ Nursing Council of New Zealand. (2023). Enrolled nurse education standards consultation. [Enrolled Nurse education standards consultation \(nursingcouncil.org.nz\)](https://www.nursingcouncil.org.nz/enrolled-nurse-education-standards-consultation)

Engineers

Regulation	Proposed registration and licencing of engineers
Regulator	A new Board would be established to oversee the regime.
Legislation	Currently being drafted.
Who is regulated?	<ul style="list-style-type: none"> Registered engineers – all engineering disciplines. Licensed engineers – services in high-risk engineering practice fields. Engineering associates – voluntary registration of engineering technicians and technologists under a separate register.
Standards and requirements	<p>To maintain registration, registered engineers would:</p> <ul style="list-style-type: none"> be subject to a code of ethical conduct, established through regulations required to meet prescribed professional development requirements, as set out in rules developed by the Board and approved by the Minister for Building and Construction, and required to make an annual declaration that they have met the above requirements in order to maintain registration.
Education, training, and CPD	<p>Board to set the eligibility requirements for registration through rules.</p> <p>Registration would also require professional development.</p>
Monitoring and oversight	<p>The Board would have the power to audit a licensed engineer’s work, both randomly or as part of an investigation into an engineer’s conduct. An engineer may be referred for disciplinary action as a result of an audit.</p> <p>Board may carry out audits of a registered person’s professional development records.</p> <p>The Board would be able to audit an engineer’s professional development records, and may request that an engineer submits their records of professional development.</p>
Enforcement	<p>A robust complaints and disciplinary process will be used to ensure engineers are held to account for poor practice or performance and that the public has confidence in the profession.</p> <p>It would become an offence to provide professional engineering services without being registered or to claim to be registered when one is not, fineable upon conviction up to \$10,000.</p> <p>It would become a criminal offence to carry out or supervise restricted engineering services without a licence, or to breach any conditions of the licence. A person convicted of such an offence would be liable to a fine of up to \$50,000. It would also be a criminal offence to knowingly engage someone who is not licensed to undertake restricted work. An individual may be fined up to \$50,000 or a body corporate may be fined up to \$150,000 upon conviction.</p>
Evidence of effectiveness	Not applicable. Not yet in force.

Application to category 3 workers	Category 3 workers would be able to be voluntarily registered with the SWRB, under a separate register. Mechanisms for registration, monitoring, and complaints would need to be established and implemented.
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Legal executives

Regulation	Voluntary membership of the New Zealand Institute of Legal Executives
Regulator	New Zealand Institute of Legal Executives (NZILE)
Legislation	<p>None although recognised in:</p> <ul style="list-style-type: none"> • Section 94A of the Protection of Personal and Property Rights Act 1988 – provides declarations may be made before a fellow of the NZILE, and • Section 9 of the Oaths and Declarations Act 1957 – provides a fellow of the NZILE are entitled to witness statutory declarations.
Who is regulated?	<p>Legal executives</p> <p>Legal executives are not qualified as lawyers; however most hold the New Zealand Diploma in Legal Executive Studies or its predecessor, the New Zealand Law Society Legal Executive qualification.</p> <p>Legal executives are skilled in one or more aspects of law and attend to a wide range of legal work, generally specialising in one or more of the following: residential and/or commercial conveyancing, estate administration, trust formation and administration, estate planning, and some aspects of litigation.</p> <p>Experienced legal executives can achieve a high degree of autonomy and independence. Their work is people-oriented and requires them to have the same high ethical standards as lawyers. They are told many things in confidence and have to apply tact, sympathy, patience, and understanding to resolve clients' problems and give appropriate advice.</p>
Standards and requirements	<p>Levels of membership</p> <p>Affiliate members:</p> <ul style="list-style-type: none"> • They are qualified and meet the institute's qualifying employment criteria: Employed as a legal executive for at least 15 hours per week if working part-time. • Working under the supervision of a lawyer who holds a current practising certificate. • Doing at least 70% legal executive work if their role includes other aspects of legal work such as personal assistant, practice manager, trust accountant. • Affiliate members who have been employed as a legal executive for at least 12 months may witness donor signatures to enduring powers of attorney under section 94A of the Protection of Personal and Property Rights Act 1988. <p>Associate members</p> <ul style="list-style-type: none"> • Same as affiliate but must have been affiliate members for 3 of last 5 years and complete 8 hours of CPD.

	<p>Fellow members</p> <ul style="list-style-type: none"> • Same as affiliate but must have been affiliate members for 5 of last 8 years and complete 10 hours of CPD. • Fellows can also witness statutory declarations under section 9 of the Oaths and Declarations Act 1957 and they are ‘trusted referees’ who may certify identity verification documents under the Amended Identity Verification Code of Practice 2013. <p>Persons registered as members of The New Zealand Institute of Legal Executives Inc (the Institute) become bound by its rules. They must:</p> <ul style="list-style-type: none"> • support the aims and objects of the Institute, and • uphold the standards of professional practice prescribed in the Code of Ethics.
Education, training, and CPD	<p>Must hold a Legal Executive Diploma to be registered.</p> <p>Affiliate members are required to complete at least six hours of CPD in each membership year as one of the prerequisites for renewing their annual registration.</p>
Monitoring and oversight	<p>Required to submit a declaration stating CPD requirements have been met for the preceding 12-months.</p> <p>May be randomly selected for a CPD audit to check compliance with the requirements.</p>
Enforcement	<p>Disciplinary process: Any member who is guilty of conduct unbecoming a member in the course of their employment or who wilfully commits any breach of the constitution or the professional conduct rules may be censured, suspended, or expelled from membership of the Institute.</p>
Related regimes	<p>Lawyers: A representative of NZILE sits as an observer on the Law Society Council.</p>
Evidence of effectiveness	<p>An independent review of the statutory framework for legal services in Aotearoa New Zealand was commissioned in December 2021.³⁵ The review was in response to concerns that the complaints process was no longer fit-for-purpose and was not serving the public or the profession well.</p> <p>The independent review was released in March 2023.³⁶ NZILE was engaged with as part of the review. NZILE highlighted that the Lawyers and Conveyancers Act 2006 regulates the activities of individuals who are employed by lawyers. By virtue of sections 11 and 14 of the Act, employees of lawyers are subject to the same minimum standards, regulatory oversight, and complaints service as lawyers – but they do not have any recognition, representation, or formal status under the Act. It</p>

³⁵ New Zealand Law Society. (2021). Independent review of the statutory framework for legal services in Aotearoa New Zealand – Terms of reference. [Independent-review-terms-of-reference.pdf \(lawsociety.org.nz\)](#)

³⁶ Independent Review Panel. (2023). *Regulating lawyers in Aotearoa New Zealand*. [Regulating-lawyers-final-report.pdf \(lawsociety.org.nz\)](#)

	<p>was submitted the Act needs updating to provide for statutory recognition of these employees and enable more tailored regulation.</p> <p>Further, the Panel noted that regulation of lawyers’ employees could be done in a more proportionate and transparent manner (rather than the same standard of a qualified and practising lawyer). Any new legislation should grant the regulator the power to tailor regulations governing the behaviour of employees. This would allow regulations to more appropriately reflect the different roles and levels of experience of employees within a workplace and would clarify regulatory expectations of those employees.</p> <p>Key recommendations from the review were the establishment of a new independent regulator to regulate lawyers, and an overhaul of the system for handling complaints about lawyers. The review panel found that the dual functions of the Law Society as a regulator and membership body did not serve the interests of the public or profession well.</p> <p>Note that in England and Wales, a super-regulator, the Legal Services Board, was established and tasked with overseeing nine approved regulators, including the Solicitors Regulation Authority for lawyers, and Chartered Legal Executives for legal executives. The Independent Review Panel did not recommend adopting functional separation in New Zealand. Additionally, the Panel noted that there are increasing calls in England and Wales to establish a single unified and independent regulator.</p>
<p>Application to category 3 workers</p>	<p>No new legislation required.</p> <p>Regulation through existing mechanisms, for example, through Te Kāhui Kāhu and contracts.</p> <p>A new, voluntary, professional association for category 3 workers.</p>