



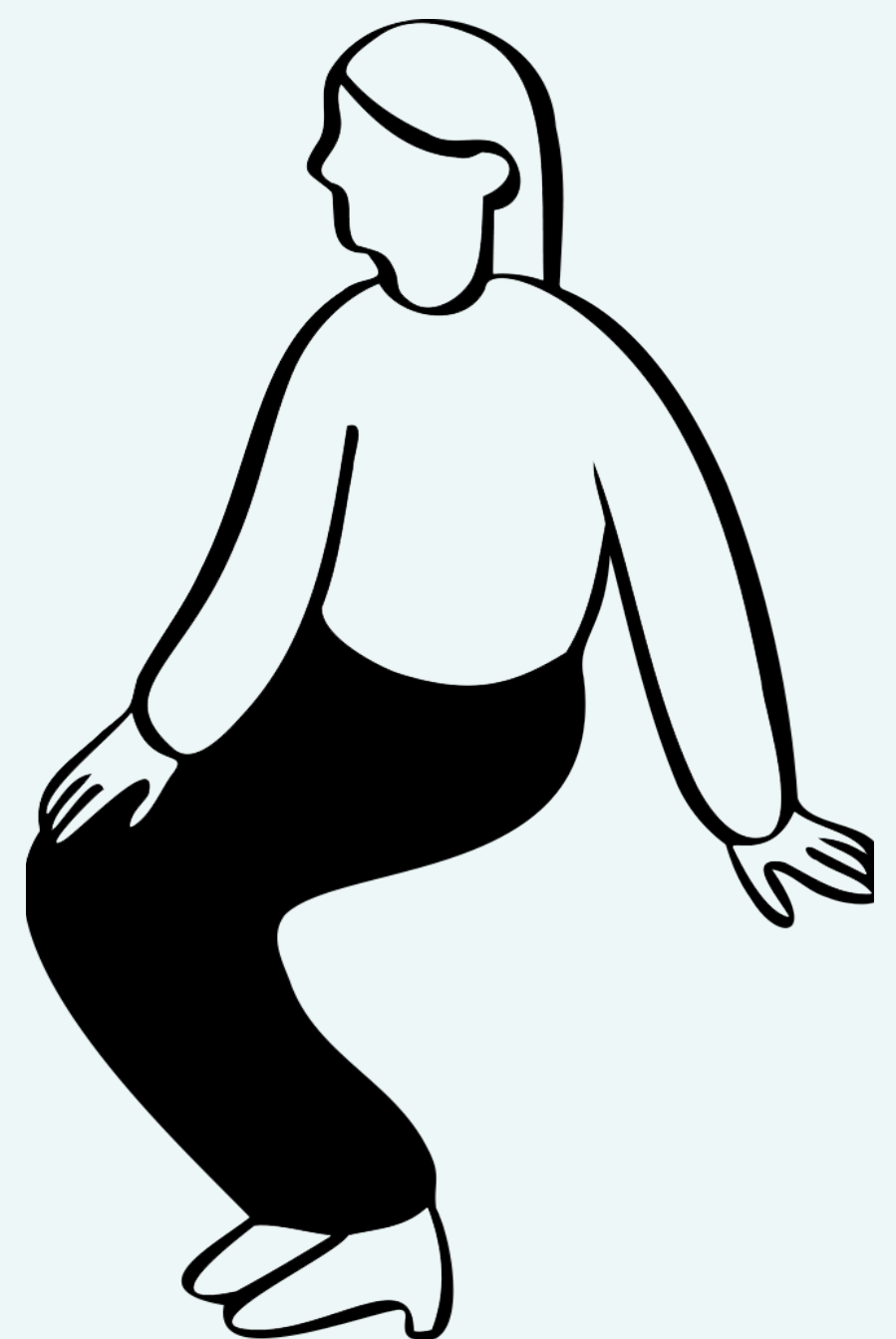
**Social Workers  
Registration Board**  
South Australia



Government  
of South Australia



# **The Regulatory Framework & Conduct, Competence and Competencies: An Explainer.**



## The Regulatory Framework

**This explainer piece provides you with an easy-to-understand description of the Regulatory Framework that was produced by the Social Workers Registration Board after much consultation. It includes background, context, and clarity regarding the importance of title and work protection for public safety.**

### **1. Registration is about regulation of title and work, not the qualification.**

The Scope of Practice describes the profession. It describes its broadness and diversity as well as the knowledge, values and skills that underpin social work. It captures social work identity. The Act regulates the use of and identification with the title. Being fully registered to work in this scope of practice entitles you to use the title of, and identify as, a social worker. The qualification is one of the eligibility criteria for registration.

Sitting within the scope of practice, Social Work Services describe the specific areas of work that are protected. This means that only persons who are registered with the Board can undertake this work. The Act enables the regulation, and therefore the protection, of this work.

### **2. Registration is about public safety – intent of the legislation.**

The Joint Committee Report on the Social Workers Registration Bill stated the following:

- Social workers deal with increasingly complex health and social needs of individuals and families... registration will serve to enhance the professional standards of the profession and better protect the safety of the public.

Coroner Reports (Chloe Valentine, Ebony Simone Naper) highlighted the following areas of concern in relation to the capacities of the workforce:

- Ability to clearly name issues, implications and potential consequences.
- Not willing or able to have difficult conversations.
- Failure to recognise patterns over time and cumulative harm.
- Overreach, inadequately grounded conclusions.
- Failure to accurately and consistently document assessments, decisions, consultations and actions.
- Lack of understanding, interpretation and use of relevant legislation and associated tools.

The Alexander Report (2022), *Trust in culture: A review of child protection in South Australia*, affirmed the value of a social work qualification, stating the following:

- Achieving consistency of practice is an easier task through a workforce with a common vocation. There are several studies that indicate that in comparison to other qualifications, those with a social work degree were better prepared on knowledge, performed better in their roles, scored higher on measures of job-related competencies and had higher levels of skill, confidence and sensitivity when working with families. Research also reflects that there is a decreased likelihood that children will be taken into care when their case manager is a [person with a social work qualification].

Alexander nonetheless emphasised significant gaps in the practice of those with social work qualifications, concluding that:

- The workforce needs formal training and skills in critical reasoning, analysis and decision making.

After sector consultation and taking into account the findings of Coronial Reports, Inquiries and Reviews, including those cited above, the SWRB SA decided on a narrow definition of social work services. This reflects the specific and high-risk nature of the work which the public would reasonably expect to be undertaken by a regulated professional. Hence, the core definition is:

- *A natural person undertaking psychosocial assessments, and analysis, and interventions to holistically evaluate the context of a person's or people's situations and their environments; for the purpose of identifying and responding to risk, violence, trauma, and/or harm.*

The protection of social work services (the work) relates directly to public safety, ensuring that high stakes work with the most vulnerable people is only done by people who are suitably educated, experienced and engaged in continuing professional development (CPD) and supervision. The ability to regulate people undertaking social work services also means that, if found to be unsuitable, they can be prevented from doing such work or conditions placed on their practice.

Exclusions have been put in place to recognise the existing accreditation, regulation and other arrangements for other professionals already doing this work, including:

- *Practitioners registered with the Australian Health Practitioner Regulation Agency who are working within their professional scope of practice; and*
- *Counsellors accredited with the Australian Counselling Association or the Psychotherapy and Counselling Federation of Australia, or rehabilitation counsellors accredited with the Australian Society of Rehabilitation Counsellors who are practising within their professional scope of practice; and*
- *Accredited Family Dispute Resolution Practitioners as defined in Family Law (Family Dispute Resolution Practitioners) Regulations 2008; and*
- *Police officers acting in their capacity as a Police officer; and*
- *Cultural advisors, and others employed for their cultural knowledge and expertise, in so far as they are providing cultural advice and/or guiding conversations on cultural business using cultural knowledge*

The requirement that only those registered with the Board perform high-risk work, together with the regulation of registrants, will promote professional standards and protect the public. It will also contribute to enhancing the status of the profession.

### **3. Regulating the qualification would circumvent registration and its focus on public safety**

Regulating only those workers with a social work qualification, and not those other (non-qualified) workers who also do this work, would leave areas of high-risk work, and the people performing it, without scrutiny. Instead of protecting vulnerable people by ensuring that only suitable people can undertake this highly specialised work, this would create a disincentive for employers to hire qualified and registered social workers. Regulating through the qualification alone also means that those with social work qualifications would be subject to higher standards and regulatory oversight than their non-qualified counterparts. In effect, the work - and therefore the public - would no longer be protected and those with qualifications would be held to high standards while their counterparts could continue to work without oversight or accountability.

No other profession that we are aware of uses a qualification to define the services it performs. Please see Appendix A for definitions used by other professions to protect their work.

The importance of protecting this work was highlighted by the Joint Committee on the Social Workers Registration Bill, noting in its report the potential for employers to circumvent registration by simply changing an employee's job title (from 'social worker' to 'case manager', for example), thereby avoiding registration requirements. Section 24 of the Act provides SA with the opportunity to prevent this. In their submission to the Committee, the Chief Executive of the Aotearoa New Zealand Association of Social Workers talked about NZ's experience of the circumvention of registration and welcomed Section 24 to stop this practice.

In short, if you only protect the title 'social worker' and/or the qualification, you cannot protect the work – the very work that has been criticised in public inquiries. This would leave the regulator powerless to stop unsuitable people from doing this work. The qualification represents the education and training that gives the Board the confidence in someone's competence; while this is central to registration, it is not the only eligibility criteria.

### **4. Registering those who perform social work services without the qualification.**

The Report of the Joint Committee on the Social Workers Registration Bill (2018) outlines the debate concerning the inclusion of people without a social work qualification (i.e. those performing social work services) in the registration scheme.

In its consultation with the sector, the SWRB SA heard arguments that workers without the prescribed qualification should be supported to continue doing this work, thus ameliorating any negative impacts on service provision. This was the context in which limited registration was introduced.

The Australian Association of Social Workers (AASW) has indicated that it does not support the inclusion of people without social work qualifications in the registration scheme. In contrast the Public Service Association asserts that while workers may not have the required qualification, they have extensive background working as 'social workers' and are experienced and respected workers who should be recognised in the new scheme. Social work leaders such as April Lawrie have also argued that the non-qualified workforce should be provided with support and development options to enable them to progress in their careers.

The Act provides for an experience-based pathway to recognise prior experience in the delivery of social work services. This enables the regulation of this workforce and, hence, the capacity to protect social work services through provisional registration and pathways to full registration.

This tailored approach represents a fair and balanced strategy for individuals working in social work services and potentially impacted by the Scheme. Granting limited registration, where appropriate, ensures continuity of services by safeguarding the workforce from immediate impacts while incorporating these workers into the regulatory framework of the Scheme. This will promote consistent, high-quality service delivery across the sector.

## **5. Protecting the public, uplifting the practice of social work services.**

The Act enables South Australia to lead in the regulation of high-risk work with the most vulnerable in our community. Protecting social work services (the work) - and regulating those doing it - sends a message both to the users of these services and the public more broadly, that they are entitled to a high-quality service delivered by an appropriately qualified, capable and accountable professional. A prescribed qualification in social work is a core eligibility criterion for full registration to do this important work

As we transition into this new environment, regulating the provision of social work services is a key priority for safeguarding the public by ensuring that all people undertaking social work services are regulated and held to the same standard. This will address the concerns that have been expressed in inquests, public inquiries and Royal Commissions.

Good regulation will further contribute to the increased status and reputation of the work and, hence, the social work profession, as expectations of higher education providers become clearer and public safety improves.

Regulation encourages the maintenance of high professional standards by registered social workers, including both competence and conduct, while ensuring that registrants are held accountable for their professional practice.

## Appendix A

### Definitions used by other professions to protect their work.

**Aboriginal and Torres Strait Islander Health Practitioner:** Professionals who provide culturally safe health care to Aboriginal and Torres Strait Islander communities.

**Chiropractor:** Professionals who diagnose and treat musculoskeletal disorders, particularly those related to the spine.

**Medical Practitioner:** Doctors who diagnose and treat illnesses, prescribe medications, and perform surgeries.

**Midwife:** Professionals who provide care to women during pregnancy, childbirth, and the postpartum period.

**Occupational Therapist:** Professionals who help people improve their ability to perform daily activities.

**Optometrist:** Professionals who provide primary vision care, including sight testing and correction.

**Occupational Therapist:** Professionals who help people improve their ability to perform daily activities.

**Osteopath:** Professionals who focus on the diagnosis, treatment, and prevention of musculoskeletal disorders.

**Paramedic:** Health professionals who provide emergency medical care and transport.

**Pharmacist:** Professionals who prepare and dispense medications and provide advice on their safe use.

**Physiotherapist:** Professionals who help patients restore movement and function through physical methods.

**Podiatrist:** Professionals who diagnose and treat conditions of the foot, ankle, and lower limb.

**Psychologist:** Professionals who study mental processes and behaviour, and provide therapy for mental health issues

**These definitions help ensure that each profession maintains high standards of practice and protects public health and safety and come from the Australian Health Practitioner Regulation Agency - Professions & Divisions.**

**Lawyer:** Professionals that provide legal services, representing clients in legal matters, giving legal advice, and appearing in court. (Legal Practitioners Act 1981).

**Teacher:** Professionals whose members are competent educators and fit and proper persons to have the care of children... provide a prescribed service in a school-based setting and education service (SA Teachers Registration Act).

## Conduct, Competence and Competencies

**This explainer piece provides an easy-to-understand overview of conduct and competence as the foundation for the Social Workers Registration Board's regulatory approach.**

### 1. What does the legislation say about conduct and competence?

Encouraging the maintenance of high professional competence and conduct standards, ensuring professional accountability, and safeguarding the public interest are primary objects of the Social Workers Registration Act 2021. A key function of the Social Workers Registration Board (SWRB SA) is to prepare or endorse codes of conduct, professional standards and ethical guidelines for registered social workers.

### 2. What is unprofessional conduct?

The term 'professional conduct' refers, generally, to the behaviours, attitudes and values that are expected of professionals in workplace - and other - settings. Importantly, it implies conduct that goes beyond an individual's personal or moral obligations to include standards of behaviour for service delivery as well as dealings with professional colleagues.

Unprofessional conduct is defined in The Act as:

- (a) a contravention of or failure to comply with —
  - (i) this Act; or
  - (ii) a condition of registration as a social worker under this Act; or
  - (iii) a code of conduct or professional standard prepared or endorsed by the Board under this Act; or
- (b) incompetence; or
- (c) disgraceful or improper conduct; or
- (d) conduct of a kind determined by the Board to be unprofessional conduct.

Competence and professional conduct are closely aligned in the Act such that incompetence, in itself, constitutes unprofessional conduct. Unprofessional conduct by a registrant may be grounds for disciplinary action.

### 3. Why focus on competencies? What is competence?

Competencies articulate profession-specific knowledge, skills, and values in relation to the work performed. They are not tied to a particular role or setting but, rather, are interrelated sets of knowledge, skills, and values that are transferable across situations and contexts.

Competencies are the building blocks for overall competence. Whereas competencies concern specific performances, competence refers to general capacity/ies - to perform social work services, for example. The SWRB SA has identified seven areas of competency, and aligned knowledge, skills and values, forming the **Social Work Core Competencies**. Collectively, these competencies 'add up' to social work competence for the purpose of regulation.

#### **4. Issues of competence are also relevant to the 'fit and proper' person requirement.**

A person's 'fit and proper' status is central to their eligibility for registration (s25(1)(c)). Section 35 of the Act provides for the Board to find that a person is not a fit and proper person to be registered but only if it is satisfied that a reasonable person would also reach this conclusion.

The fit and proper requirement, common to many professional registration schemes, can be understood as referring to the conditions, often expressed as character traits and personal qualities, that determine 'suitability' for a profession.

The Act specifies the grounds on which a person may be found not fit and proper for registration. These include prior convictions (where the nature of these convictions reflects adversely on a person's fitness to practice), character concerns, deficiencies in the comprehension or expression of English language, and risks to the health and safety of members of the public. Mental or physical health conditions that prevent a person from satisfactorily and safely practising as a social worker are also considered.

The SWRB SA regards 'fit and proper', or fitness to practice, considerations as closely aligned with the expectations for professional conduct. The term 'professional conduct', in general use, refers to the behaviours, attitudes and values that are expected of a professional.

While reflecting the identity and values of the social work profession, the SWRB SA Code of Conduct sets out the expectations regarding registrants' behaviour and practice for the purpose of registration.

#### **5. Why has SWRB SA developed its own materials? How are these different to those produced by the AASW?**

The SWRB SA Social Work Core Competencies and Code of Conduct have been developed for the specific purpose of regulation, in accordance with the provisions of The Act, and reflect the SWRB SA definition of Social Work Services and Scope of Practice. Their outcome-focused approach enables the transparency and accountability that is necessary for regulation while also providing a way to visualise our goals in a way that integrates practice, social work identity and values.

The SWRB SA and the Australian Association of Social Workers (AASW) each have distinct roles and purposes. Whereas the AASW, as a professional association, exists to represent and advance the profession, the SWRB SA, as the regulator, has the legislative authority to govern the profession and enforce standards, with a primary focus on protecting the public.

While the SWRB SA recognises and respects the AASW's role in advocacy, CPD and developing professional guidelines and resources, it has had to develop its own materials in line with the particular demands of the South Australian regulatory environment.

The AASW's (2020) Code of Ethics, for example, articulates 'good' practice by setting out general ethical principles and responsibilities for the social work profession. The SWRB SA's Code of Conduct, however, focuses on minimum requirements as standards against which performance can be assessed for the purpose of regulation.

Similarly, SWRB SA's focus on competencies, as distinct from practice standards, directs attention to the work actually performed in the integration and application of contextually appropriate knowledge, skills and values. Standards, instead, relate to the quality (or level) of performance – how well the work is done – and are less useful in a regulatory setting.

While the SWRB SA encourages best practice, its role is to clearly identify and hold registrants to account for their practice against minimum requirements of competence and conduct. In the interests of transparency, the Code of Conduct and Social Work Core Competencies have been developed and published to inform applicants and registrants of the expectations for registration.