



31 January 2018

Jan Logie, MP  
Chairperson  
Social Services and Community Committee  
Parliament Buildings  
Wellington

Dear Social Services and Community Committee

### **Social Workers Registration Legislation Bill**

I am pleased to provide this submission on the Social Workers Registration Legislation Bill. The Bill contains provisions affecting the privacy of individuals involved in disciplinary processes and reflects the recommendations made by the select committee in regards to the review of the Health Practitioners Competence Assurance Act 2003.

I have no outstanding privacy concerns with respect to the Bill as introduced. My office was consulted by the Ministry of Social Development on clause 46 during the development of this Bill.

Clause 46 of the Bill provides for new sections 68A and 68B which are of particular note from a privacy perspective. Clause 46 creates a power for professional conduct committees ('the committee') to require information to be produced to allow the committee to carry out its functions. These functions include assessing complaints against social workers, determining whether the Registration Board should review a social workers' continued competence or fitness to practice social work and determining whether complaints should be referred to the Social Workers Complaints and Disciplinary Tribunal ('the Tribunal') for investigation. The provisions in clause 46 are modelled on sections 77-78 of the Health Practitioners Competence Assurance Act 2003.

Clause 46 provides that an agency must comply with a production notice for information unless compliance would mean disclosing privileged information or breach an obligation of secrecy imposed by another enactment (new section 68B(3)). New section 68B(3)(b) clarifies that other enactment does not include the Privacy Act 1993 and therefore exempts agencies from their obligations under Information Privacy Principle 11 (limits on disclosure of personal information) where they are disclosing information to the committee. This is appropriate in the context of attempting to determine whether a complaint against a social

worker is valid. However, I note that this is a limited exception for agencies external to the committee and that the committee will remain subject to all 12 principles of the Privacy Act, including the requirements to retain information only as long as it is necessary and to keep information secure.

I consider that clause 46 is appropriate in the context of the work undertaken by similar professional conduct committees, as are the privacy protections in clause 50 of the Bill. Clause 50 provides privacy protections for witnesses to the Tribunal, including the non-publication of names of complainants under 18 years old or where their allegations involve sexual abuse.

Clauses 22 and 28 also have privacy implications, whereby employers of social workers are required to notify the Registration Board in situations where a social worker is no longer competent (clause 22) or where a social worker is involved in serious misconduct (clause 28). This appears appropriate given the nature of social work. I note that clause 22 requires an employer to have undertaken reasonable steps to assist the social worker to improve their competence before referring the matter to the Registration Board. This process is a necessary and appropriate step to ensure that referrals are not malicious.

I do not wish to speak to this submission but am happy to make myself available to the Committee if that would be of assistance.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'John Edwards', written over a white background.

John Edwards  
**Privacy Commissioner**