

THE LEGAL AND ETHICAL OBLIGATIONS OF SCHOOL SOCIAL WORKERS

Roelf Reyneke

In recent years social workers have been appointed in some schools on the assumption that social work services can contribute towards improving education in schools by supporting the psychosocial development of learners. Social workers not only place a high priority on ethical conduct, but as custodians of the Children's Act, they also have distinct legal obligations towards children. However, social work ethics and these legal obligations could create ethical dilemmas. This narrative review article provides the background to school social work and explains some of the legal and ethical obligations that social workers face in this environment. A few common ethical dilemmas are also discussed.

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### INTRODUCTION

School social work is a relatively new development in the modern South African education system. Thus, the roles and tasks of the school social worker are still not apparent to their employers and the broader education system. This sometimes leads to confusion, not just for the Department of Basic Education (DBE), the school governing body (SGB) and principals, but also for the social workers themselves working in this field.

Social work as a profession is bound by a code of professional ethics and conduct, as well as specific legislative requirements set out by the Constitution of South Africa, the Social Service Professions Act and the Children's Act. Furthermore, school social workers are bound by the expectations and ethical codes of the South African Council for Social Service Professions (SACSSP) and the South African Council for Educators (SACE). This dual registration attests to the level of ethical responsibility that social workers carry in the school environment. A search of online electronic databases and other related literature confirmed the lack of clarity on the legal and ethical obligations of school social workers.

This narrative review article will discuss and describe these obligations of school social workers. The aim of the discussion is not only to empower school social workers, but also to shed light on the ethical dilemmas they face in performing their duties. School social workers are usually appointed by SGBs and managed by principals, who do not have the necessary understanding of the ethical and legal expectations set by the SACSSP. To explain these expectations, the article will provide some context for social services rendered in schools. The discussion starts with an explanation of the research methodology. The debate then starts with a conceptualisation of school social work, followed by the legal obligations that derive from legislation. Next the guiding ethical values and principles regulating school social work are discussed. Then some of the main ethical issues that school social workers experience in practice are emphasised. Lastly, some recommendations are made to support decision making by individuals involved in school social work.

### RESEARCH METHODOLOGY

Narrative reviews are comprehensive narrative syntheses of previously published information such as articles, policies and laws (Green, Johnson & Adams, 2006:103). There seems to be no agreement among researchers on what these reviews should entail. Some argue that authors should critique every article they include in a review, while others do not think this is necessary. They do, however, agree that narrative reviews are useful for educational purposes, since they present a broad perspective on a topic (Green et al., 2006:103). Since school social work is still in its infancy, the main aim of this review is to educate school social workers and other role players on the legal and ethical obligations of this professional group.

To ensure a comprehensive search for scientific information, at least two reputable online databases were used (Gasparyan, Ayvazyan, Blackmore & Kitas, 2011:1412). Inclusion (Table 1) and exclusion criteria were used in these searches. Exclusion criteria included non-scholarly articles, research articles older than ten years and articles not written in English.

The selected scientific articles, policies and laws were categorised, summarised, compared and synthesised. During this process, further searches were conducted to clarify issues that arose.

The most obvious limitation of this review is the lack of previous research and scholarly articles on this topic. This constraint made it impossible to do a qualitative systematic literature review, which is a more rigorous method of conducting systematic reviews (Green et al., 2006:104).

**TABLE 1**  
**INCLUSION CRITERIA FOR SOURCES UTILISED IN THIS NARRATIVE REVIEW ARTICLE**

- Academic Search Ultimate, search January 2014–December 2019
- Ebscohost, search January 2014–December 2019
- Mendeley Web search
- Library books and theses not older than 10 years Keywords: Narrative reviews, school social work; ethics; law; social work ethics; school violence; trauma in schools; children's rights
- Online searches for laws, regulations and policies focused on children; education, ethics and social work in schools – no date limitation
- Discussions with school social workers and the Free State Special Schools Supervision Group (FSSSSG), 2019.
- Personal experience in working with and training school social workers

Given the lack of clarity on the expectations of school social workers, the research question that directed this study was intended to ascertain what the legal and ethical obligations of school social workers are. The aim is to provide some guidelines for ethical conduct and ethical decision making in schools.

## **SCHOOL SOCIAL WORK**

School social work cannot be practised outside of the broad ethical principles and values of the social work profession. These values and principles are encapsulated in the global definition of social work, which determines that:

Social work is a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. Principles of social justice, human rights, collective responsibility and respect for diversities are central to social work. Underpinned by theories of social work, social sciences, humanities, and indigenous knowledge, social work engages people and structures to address life challenges and enhance wellbeing. The above definition may be amplified at national and/or regional levels (International Federation of Social Workers [IFSW], 2014).

From this definition it can be concluded that, in the school context, social workers would focus their professional interventions on the development and empowerment of learners, educators and parents within the parameters of the mentioned principles.

Although school social work is not a new concept internationally, it remains difficult to describe what school social workers should do – the reason being that social workers undertake a wide variety of activities in schools (Gherardi & Whittlesey-Jerome, 2018:36). Because schools are small communities, each with unique psychosocial needs, school social work as a discipline differs from generic social work, even though practitioners use the generic social work methods of case, group and community work (SACSSP, 2016:4). When applying these methods, the school social worker should adhere not only to the core focus of social work, but also to that of school social work. This includes promoting a culture of learning, developing the human potential of learners, addressing the psychosocial needs of learners, and performing these duties within a multidisciplinary team in the framework of inclusive education (SACSSP, 2016:14-15).

The question is thus raised: What constitutes school social work? According to Vergottini (2018:34-35), school social work is:

... the application of social work principles and methods within the education system to render holistic social work services to support learners, parents, educators and the school as community, with the main goal of establishing an environment where the learner can reach his or her full potential by addressing social, emotional, socio-economic and behavioral barriers to learning.

This definition emphasizes the implementation of social work principles and methods in the school system and the holistic support of learners who experience barriers to learning. By implication, social work ethical practices, norms and values are implemented in this environment.

Section 28(1)(c) of the Constitution Act 108 of 1996 (Republic of South Africa [RSA], 1996a) stipulates that all children have a right to social services. This section is of particular importance, since children and youths are seen as a vulnerable group and should thus receive more support and care than adults. This stipulation is justified by the fact that in 2018 approximately 11.7% of South African children had lost one or both parents, 19.8% lived with neither parent, 67.2% attended no-fee schools, and/or live in lower-income households, of which 45.2% of households depend on social grants and thus have insufficient access to food (Statistics South Africa, 2018:10, 11, 20). Furthermore, the drop-out rate from school is high, exacerbating the vulnerability of these youths (Statistics South Africa, 2018:25). To address this issue, the South African government has set millennium goals to improve education and ensure that between 80 and 90% of learners complete 12 years of schooling (National Planning Commission [NPC], 2012:69). This will reduce their vulnerability as adults.

The social protection of children has also been prioritised in the millennium goals. Protection includes the availability of social care and safety services, as well as an increase in the availability of social service professionals such as social workers (NPC, 2012:72-73). This paper submits that the introduction of more social workers into the school system could help to achieve the millennium goals with regard to the provision of services to children and protection them from harm.

Within this context, the school social worker has a particular role to play. Some research has been done recently to determine the roles and tasks of the school social worker in South African schools. Studies by Kemp (2014), Van Sittert and Wilson (2018) and Vergottini (2018) all focused on what these roles should be. The aim of this paper is not to explain the tasks and roles of the school social worker in detail. However, the above-mentioned research indicates certain focus areas in delivering services to learners, which will be mentioned briefly below.

Kemp (2014:30) acknowledged ten roles and functions that the school social worker should fulfil during service delivery: (1) identifying learners who need support; (2) assessing their needs and problems; (3) interpreting these needs and problems to school staff, learners, parents and other role-players; (4) providing direct and indirect services; (5) providing consultation, collaboration and coordination; (6) promoting parental involvement; (7) promoting community involvement; (8) liaising with resources; (9) developing inter-professional teams; and (10) developing a proper administrative system. These roles and functions indicate that social workers should be skilful in working with different role-players and fulfil a particular mediation role between learners experiencing psychosocial problems and the other role-players in their life.

The work of Vergottini (2018:167-170) confirms and expands the roles set out by Kemp. She identified six focus areas in which specific roles are encapsulated: (1) services to learners and parents/guardians; (2) services to educators; (3) the development and implementation of programmes and projects; (4) the development of new policies; (5) contribution in a multidisciplinary team; and (6) some general roles and tasks of the school social worker that did not fall within this framework.

Van Sittert and Wilson (2018:7) also identified certain roles of the school social workers specifically in the framework of inclusive education (DBE, 2010). The latter refers to a system that provides various levels and forms of support to learners and educators. The system has a particular focus on meeting the

full range of the learning needs of all learners and supporting learners to overcome their barriers to learning (Department of Education [DoE], 2001:16-17). These authors identified roles pertaining to the support of learners with emotional barriers to learning, collaboration with other professionals, implementing prevention programmes, and the empowerment and training of educators (Van Sittert & Wilson, 2018:7).

It is clear that the social worker has specific roles to play within the school environment. In the fulfilment of these roles, the social worker might ‘step on the toes’ of other role-players, leading to conflict and even mistrust. Educators and parents might not always grasp the reasons for a specific intervention or decision by the social worker. Therefore, an understanding of the social worker’s legal and ethical obligations is needed to shed light on these reasons.

## LEGAL OBLIGATIONS

The South African Schools Act 84 of 1996 (SASA) (RSA, 2011a) does not mention “school social workers”. It does, however, define the term “educator” as a person who “teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a school”. The fact that an educator is also defined as a person who provides professional therapy implies that the social worker is also seen as an educator.<sup>1</sup> Section 21(1) of the South African Council for Educators Act 31 of 2000 (RSA, 2000) expects all educators to register with the SACE, meaning that school social workers have to register not only with the SACSSP, under section 17(1) of the Social Service Professions Act 110 of 1979 (Republic of South Africa, 1978), but also with the SACE. Both professional bodies have their own ethical standards (SACSSP, 2005; South African Council of Educators, (SACE), 2002). Consequently, this dual registration not only places a higher administrative and financial burden on school social workers, but even more importantly, they are subject to a higher level of ethical conduct. It may be argued that, since they are working with vulnerable children, a higher ethical standard has been set for them.

School social workers have legal and ethical obligations to report educators who are committing sexual offences against learners, in terms of the Sexual Offences Act, section 54 (RSA, 2014), and to report the abuse or neglect of children, in terms of the Children’s Act 38 of 2005, section 110(1) (RSA, 2005). Having the power to report other educators and to ensure ethical and legal compliance may cause interpersonal problems in the work environment and even lead to rejection from other educators. Consequently, educators might be reluctant to refer learners to the social worker, which could impact negatively on the service provided.

One of the main tasks of social workers worldwide is the protection of children (SACSSP, 2016:8). Although they hold no parental rights and responsibilities in respect of learners, school social workers take care of learners when they are at school. Section 32(1)(a-b) of the Children’s Act provides that such care should:

- safeguard the child’s health, wellbeing and development; and
- protect the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation, and any other physical, emotional or mental harm or hazards.

As mentioned previously, this special protection is required because of children’s vulnerability. The social worker must ensure that children in the school environment are protected against any form of harm, making it their legal obligation to do everything possible to protect all the learners in the school. This obligation grants them the legal power to investigate and report cases of abuse and neglect within

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<sup>1</sup> For the sake of clarity the term “teacher” will be used when referring to the person standing in front of a class, teaching learners. “Educator” is thus an umbrella term, as described in the SASA definition, which includes the school social worker.

the school environment. It also includes providing psychosocial services to learners who have been victims of abuse and neglect.

Section 28(1) of the Constitution provides for specific rights of children. Of particular importance for this paper are sections 28(1)(c), which refers to a child's right to social services, and 28(1)(d), which provides for "protection from maltreatment, neglect, abuse or degradation". Therefore, the school social worker, as a guardian of children and in accordance with section 6(2)(a) of the Children's Act, needs to "respect, protect, promote and fulfil the child's rights" as set out in the Bill of Rights (section 7 of Constitution). Section 8(2) of the Children's Act further stipulates that all school officials or officials employed by schools must respect, protect and promote the rights of children. This, again, implies that school social workers should ensure that learners are protected at all time. They would have to ensure that learners are not subjected or exposed to any maltreatment, abuse, neglect, exploitation, degradation, ill-treatment, violence or harmful behaviour (Children's Act, sections 7(l)(i-ii)).

Legally, the school social worker has an obligation to protect children (see Table 2). In practice, this could mean intervening when a learner is suspected of being abused or neglected at home. Also, when a learner is a victim of ill-treatment, violence or degradation inflicted by adults and learners in the school environment, e.g. bullying or abuse, an investigation must be conducted and proper action taken against the perpetrators (DBE, 2017).

Ethical issues can arise when the school social worker has to act on suspicions that a parent, learner or educator is infringing on the rights of learners by committing physical, sexual or emotional abuse, and when learners' best interests are not taken into account when decisions are made on matters that involve them (Children's Act, section 9). The social worker not only has an ethical and legal obligation to act when abuse comes to light, but also the legal power to either investigate the situation or refer the case to the Department of Social Development or a child protection agency for further investigation (RSA, 2010:116). The social worker cannot be expected to ignore child protection issues for the sake of the good name of the school or any other reason. The next part of the discussion will give an account of social workers' primary ethical obligations.

**TABLE 2**  
**SUMMARY OF THE LEGAL OBLIGATIONS OF THE SCHOOL SOCIAL WORKER**

<b>Obligation</b>	<b>Applicable acts</b>	<b>The focus of the applicable act</b>
Child Protection	Constitution 28(1)d Children's Act 1(a-e) Children's Act 2(d & f) Children's Act 7(l)(i-ii) Children's Act 31(1)(a-b)	Maltreatment; neglect; abuse; degradation Protection from all forms of abuse Unfair discrimination; enabling environment for special needs Physical and psychological harm (subjecting and exposing a child to harm) Health; well-being; development Maltreatment; neglect; abuse; degradation
Uphold the rights of children	Constitution 28(1)(c) Children's Act 6(2)(a)	Social services Respect, protect, promote and fulfil children's rights
Ensure people are fit to work with children	Children's Act 123(1)(e) Sexual Offences Act 41(1)(a-b) Public Service Act 120(4)(a) and Employment of Educators Act 17(1)(b-d)	Name on Child Protection Register Sexual Offences Register Criminal acts against children, e.g. rape, indecent assault, assault with the intent to do grievous bodily harm
Ensure the best interests of the child	Children's Act 2(a-f) and 9	In all matters concerning the care, protection and wellbeing of a child, the standard that the child's best interest is critical must be applied.

## **ETHICAL OBLIGATIONS**

School social workers have ethical obligations, determined by the SACSSP and SACE, and they should be reminded continuously of these obligations, as should their employers. This is vital, because the fulfilment of these obligations affects the services rendered to learners. Ethical conduct from all role-players in the school system will contribute to advance learners' right to quality education (RSA, 1996; Committee on Economic Social and Cultural Rights, 1999). It is thus crucial that the ethical standards set by professional councils be strictly adhered to, especially since adherence could contribute to initiating change in the current education system. The general ethical expectations of the two professional councils will be set out briefly below, followed by the guiding ethical values and principles regulating school social workers.

### **South African Council of Social Work (SACSSP)**

In terms of section 17(1) of the Social Service Professions Act, a social worker must register with the SACSSP to be able to practise. The same section stipulates that, in order to be registered as a social worker, the person needs to satisfy the Council that she is "a fit and proper person to be allowed to practise the profession of social work". In other words, the person should have a clean police clearance certificate and not be mentioned in section B of the National Child Protection Register and the National Register for Sex Offenders. If social workers conduct themselves in an unprofessional or improper manner, they will be disciplined by the Council (Social Service Professions Act, section 21(1)).

The SACSSP (2005) developed a comprehensive policy guideline which describes the professional conduct, code of ethics and rules for social workers. (The guiding ethical values and principles described in this code of conduct will be discussed later.) This document also mentions that there are general ethical standards that social work practitioners should adhere to. The code of conduct refers to the social worker's responsibilities towards the profession, client systems, colleagues and other social

workers, practice settings and the broader society, amongst other things (SACSSP, 2005:8-43). An in-depth discussion of all these responsibilities is beyond the scope of this paper. Hence, they are only mentioned at this stage to emphasise that the SACSSP expects social work practitioners to understand that they have particular ethical responsibilities. Where applicable, I will refer to these responsibilities below.

### **South African Council for Educators (SACE)**

As explained earlier, a school social worker is seen as an educator, and all educators must register with the SACE (sections 1 and 21(1)). In their undergraduate training, social work students are thoroughly trained in the ethics of social work (Council on Higher Education, 2015; South African Qualifications Authority, 2018) and should, therefore, understand the expectations set by the social work profession. However, school social workers are not necessarily familiar with the SACE code of conduct (SACE, 2002). An examination of the SACE document revealed that, although the document itself is very different (much less detail) from the SACSSP code of conduct, the contents refer to many of the same issues. The promotion of fundamental human rights is one of the critical elements of the SACE code (section 2.3), and rightly so. Educators are further expected to behave in such a manner that they do not bring the teaching profession into disrepute. None of these expectations would be foreign to a school social worker, since the social work profession sets the same expectations (SACSSP, 2005:5). The SACE code describes certain expectations for the educator (section 3). Again, most, if not all of the expectations, link well with those set for social workers, e.g. general ethical standards (SACSSP, 2005:5-43). What stands out is the emphasis on the need to respect the dignity, beliefs and constitutional rights of learners, to avoid humiliation and, importantly, to refrain from any form of abuse. In general, then, educators are expected to foster a safe environment for learners. The code also specifies appropriate behaviour towards parents (section 4), the community (section 5), colleagues (section 6), the education profession (section 7), the employer (section 8) and SACE (section 9) (SACE, 2002).

The code of conduct for educators clearly sets up high ethical expectations of educators. Naturally, most of these expectations are developed with the teacher in mind. However, the basic principles for both educators and school social workers are the same. Children are vulnerable and they need the protection of the adults working with them. In the next part of the discussion, I will attempt to explain the guiding ethical values and principles that direct school social work.

### **Guiding ethical values and principles regulating social work practice**

When discussing the guiding values and principles of social work in South Africa, mention should first be made of the global social work statement of ethical principles as determined by the IFSW (2018). These principles recognise and promote the inherent dignity of humanity, human rights, social justice, the right to self-determination, the right to participation; they respect confidentiality and privacy; they advocate treating people holistically; they promote the ethical use of technology and social media; and they strive towards maintaining professional integrity. The SACSSP (2015) code of professional conduct compares well with the international standard set by the IFSW.

Next, the main elements of the SACSSP code of conduct will be discussed briefly within the framework of school social work. The SACE code of conduct will be included, since it is applicable to the school social worker. Although these guiding ethical values and principles are discussed separately, they are difficult to separate as they overlap.

### **Social justice**

Social justice is defined as “creating a fair and equal society in which each individual matters, their rights are recognized and protected, and decisions are made in ways that are fair and honest” (Oxford, 2019). The SACSSP (2005:6) code of conduct states that social workers should challenge social injustice. In a school environment, this call for social justice implies that the school social worker work tirelessly to ensure that the standard of the best interest of the child, as set out in general comment 13 of

the Committee on Economic Social and Cultural Rights (1999), is adhered to. In addition, the school social worker must ensure that the school environment is such that the right of the child to basic education is not infringed upon (Reyneke, 2018b:80; South African Human Rights Commission, (SAHRC) 2012:12).

The problem arises if teachers and management become uncomfortable when the school social worker advocates for the fundamental human rights of learners. Even so, it remains the task of the social worker to ensure fair treatment of all learners in the school environment. Fair treatment pertains to how they are managed in the classroom, the expectations set for them by the SGB (e.g. school uniform requirements) and how they are treated if they do not conform to the school code of conduct and have to be disciplined. With regard to social justice, the social worker has to ensure that cultural and ethnic diversity are approached sensitively, that policies are not informed by the ideas of only one ethnic group, and that the voice of learners is being heard (Khumalo & De Wet, 2018:113; SACSSP, 2005:6).

### **Respect for people's worth, human rights and dignity**

A founding provision of the Constitution (section 1(a)) is that the human dignity and human rights of all people be valued and respected. This provision is also part of the fundamental principles of the social work profession and is mentioned explicitly in the social work scope of practice (SACSSP, 2016:8).

Not all schools can afford a permanent social worker. In mainstream schools social workers are usually appointed by the SGB, if they can afford it. Those who cannot afford it are provided with psychosocial services by the provincial DoE. Within this structure, there are district offices, circuits within the districts and, on grassroots level, mainstream and special schools. On circuit-level social workers provide services to learners in schools who require psychosocial support (DBE, 2018a:19). This structure boils down to one social worker having to service numerous schools, an impossible task for one person. Being overloaded with having to service so many schools would make it extremely difficult for the social worker to provide an effective service to learners, which would impact negatively on the learners' right to social services (Constitution, section 28(c)). This sends the underlying message to learners that they are not important.

The dignity of learners could also be compromised if they do not receive the necessary social services, especially when they come from poor and neglected communities. When learners receive messages suggesting their unworthiness, their self-image suffers and their frustration manifests in anger and rebellion (Brendtro, Brokenleg & Van Bockern, 2019:48). Feelings of discontent may contribute to disciplinary problems and a decline in the quality of their education.

Being unable to provide a service to learners in need of care and protection can put social workers in a challenging position, especially since the guiding principles of the profession expect them to provide such a service. Ultimately, the image of the profession suffers, as the impression is created that social workers do not contribute to the fostering of a positive educational environment and, thus, are not needed.

### **Competence**

Competence refers to the provision of a skilful service that demonstrates scientific knowledge and sound judgement, and that takes appropriate precautions to protect clients (SACSSP, 2005:6; SACE, 2002:5). This paper argues that many school social workers are unable to showcase their competence as a result of factors in the education system. According to HEMIS (Higher Education Management Information System) statistics (DBE, 2018b:1), there were 23,289 public schools in South Africa in 2018, with 12,230,194 learners. In contrast, formal statistics on the number of employed school social workers are difficult to find. However, Vergottini (2018:85) established that there were approximately 268 social workers employed in provincial offices (4), district offices (152), special schools (80), schools of industry (5) and in SGB positions (27). Employment data from the provincial DoEs in

Limpopo and Gauteng could not be accessed. From my contact with schools in the Free State, it is clear that there is an under-representation of social workers in SGB positions.

Nevertheless, these figures clearly point to the unmanageable caseload of social workers. For example, the seven school social workers in the Free State districts have to serve 1,117 ordinary schools, that is an average of 160 schools per social worker (DBE, 2018b:1). Serving this many schools is an impossible task that will create enormous stress for the diligent social worker. She would not be able to apply her competence, which would, in turn, would undermine her ethical responsibility towards her profession and clients. Furthermore, expectations of the DBE, learners, parents and school officials cannot be fulfilled, since it is impossible to provide therapeutic and other developmental services to all the learners in need of specialised care. The inability to satisfy the need for proper psychosocial interventions in schools might contribute to the decline in the fostering of constructive educational environments, as well as the development of negative perceptions of school social work services.

Social workers employed by SGBs are in a much better position to provide a competent service, since they work in only one school. They can apply their scientific skills and knowledge, and exert the influence that a competent social worker can have in the school environment. This impact is probably why there is an increase in SGBs employing social workers.

In order to ensure competence in the workplace, school social workers are expected to constantly improve their own skills by attending continued professional development (CPD) training (SACSSP, 2005:65). With CPD training, professionals can keep up to date with new developments in their fields. Social workers should not only keep up their competence, but be able to follow proper procedures to deal with incompetence or misconduct of colleagues (SACSSP, 2005:34; SACE, 2002:5).

## **Integrity**

The SACSSP expects social workers to be honest, fair and respectful to others in their daily practice. This behaviour will be influenced by their beliefs, values and the limitations of the working environment (SACSSP, 2005:7). In order to show integrity, the roles of the social worker in the education environment must be clarified. In addition to these roles, as explained earlier, the scope of practice of the school social worker is intended to “enable learners to make maximum use of the academic, developmental and social opportunities afforded to them in the school setting” (SACSSP, 2016:14). This means that the social worker should contribute, where necessary, towards changing the culture of the school environment to promote a culture of learning, develop the potential of all learners and work in a multidisciplinary team that renders support to learners (SACSSP, 2016:14-15). In her daily interventions, the school social worker should be honest, fair and respectful to all learners and colleagues. Educational practices that discriminate against learners should thus be eradicated, as these practices could negatively affect the learners’ ability to fully utilise the academic and social environment that the school provides. This expectation can create ethical dilemmas in cases where social workers identify educators who infringe on the rights of learners and still need to act fairly, honestly and respectfully.

## **Professional responsibility**

Social workers have an obligation to maintain high standards of practice and uphold the values, ethics and knowledge of the profession. They also have to take responsibility for their actions and those of their colleagues, and adapt their methods to the needs of their clients (SACSSP, 2005:7-8). As mentioned above, this can create an ethical dilemma for the social worker when it comes to making colleagues, especially colleagues from another profession, aware of their unprofessional conduct. By the same token, educators are also bound by expectations of ethical conduct and should refrain from undermining the status and authority of other colleagues (SACE, 2002:5). The expectations of both SACSSP and SACE with regard to professional conduct towards the different professions are clearly stipulated in their respective codes of conduct.

## Show care and concern for the wellbeing of others

Learners have a constitutional right to receive education in a peaceful and carefree environment (Constitution, sections 12(c), 24(a), 28(1)(d)). Unfortunately, this is not possible for all learners. Violence in schools in the form of bullying, from peers and even educators, infringes on this constitutional right (Burton & Leoschut, 2013:xii). The priority areas of the Care and Support for Teaching and Learning Programme (CSTL) (DBE, 2016) include psychosocial support, welfare services, and safety and protection services, to name but a few. The introduction of this programme by the DBE indicates their commitment to showing care for learners and putting mechanisms in place to ensure their wellbeing.

Although policies and programmes demand care and support to learners, teachers and school social workers are also ethically obliged to request and provide services to learners. Showing care and concern effectively means that these professionals will “promote, restore, maintain and enhance the well-being of individuals, families, groups, organisations and communities” (SACSSP, 2005:7). Moreover, the Children’s Act (section 2(a-f)) stipulates that children be respected, protected and their best interests be of paramount importance. This is also in line with the requirements of the United Nations (UN) Convention on the Rights of the Child (1989:2), namely that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”.

Teachers and school social workers should always focus on what is in the best interest of the learner. If any person in the proximity of a learner does anything that will have a negative impact on their physical and emotional wellbeing, something should be done about it, even if this were to lead to confrontation and conflict between adults. The so-called “good name of the school” should not stand in the way of the need to protect learners.

## Service delivery

School social workers should assist learners, their families and the wider community to address their social needs and problems. During these interactions with clients, the principle of self-determination should be practised within the boundaries of their capabilities and the requirements of the law. These services should also demonstrate professionalism and high standards (RSA, 2005; SACSSP, 2005:8).

This paper argues that the services provided by social workers could help to improve the education of learners. This can, however, only be realised when these services are provided professionally and ethically. The social worker should, therefore, be well trained to perform her duties, and set high standards for both herself and her colleagues who interact with learners in the classroom. On the other hand, teachers should be empowered to deal effectively with learners without fearing unnecessary criticism from the school social worker (SACSSP, 2005:13; SACE, 2002:5). Nevertheless, it is critical that every learner is protected and provided with a service of the highest quality.

## Ethical issues

Legislation, policy and ethical values and principles provide guidance for both school social workers and teachers on how to deal with learners and their problems. Furthermore, they provide guidelines as to the expectations of their employers. Next, some of the ethical issues and problems that school social workers might face are discussed.

## Confidentiality

Confidentiality, or rather the lack thereof in schools, is one of the main concerns of school social workers. The lack of confidentiality is an indication that the values of respect and care and concern for the wellbeing of the learner are not adhered to. The SACE code of conduct (2002) mentions the need for confidentiality only once. In contrast, the SACSSP code of conduct (2005) refers to this issue several times and specific sections of the document focus specifically on this issue. There is thus an extremely high expectation that social workers should keep the information regarding their clients

confidential. This is also an international standard set for social workers (IFSW, 2018). Discussions with school social workers indicated that confidentiality is not that important for many teachers, which, in turn, creates ethical challenges for the school social worker (FSSSSG, 2019).

In order to respect learners' worth, human rights and dignity, it is crucial that confidentiality be observed (SACSSP, 2005:6). Learners who trust the social worker will sometimes share sensitive information about their home circumstances, fears, traumas, etc. The social worker should not maintain confidentiality if this is not in the best interest of learners, for example, when they are victims of rape, neglect or abuse. The Children's Act (section 13(1)(d) and 110 (1-2)) is clear that this information should be revealed to a child protection service for further investigation.

It is more problematic to decide whether the information shared in confidence should be shared with a teacher. The obvious answer is that, since the learner shared the information in confidence, it should not be passed on by the social worker. However, it could be helpful for teachers to understand the background of a particular learner, since vulnerabilities such as family influences, maltreatment, poverty, substance abuse, AIDS, death, etc. could explain behavioural issues in the classroom (Levine & Kline, 2006; Louw & Louw, 2014:393-428). Having knowledge of a learner's circumstances could help the educator deal more effectively with her. It is suggested that the social worker obtain permission from the learner to share certain information with the teacher. Only information that the learner gives permission to share should then be passed on to another educator. In addition, principals should be strict with teachers who do not respect a learner's right to privacy and confidentiality (section 3.1 of the code of ethics; SACE, 2002:4) and take the necessary steps to ensure that educators do not disrespectfully share information inappropriately.

Another option in dealing with the issue of sharing confidential information is to become a trauma-sensitive school. Being trauma-sensitive could improve the academic performance of learners, reduce student behavioural outbursts and lessen the incidence of other disciplinary problems in schools (Oehlberg, 2008; Reyneke, 2020:206). If teachers assume that several learners in their classrooms have been, or are, victims of trauma and adapt their teaching practices to accommodate these learners, they would not need to have intimate knowledge of learners' circumstances. In using a restorative approach to discipline, educators can also get to know the learners through the use of circles (Pringle & Reyneke, 2020:328). During these circles, learners might share relevant information about themselves and develop a trusting relationship with the educator. They will then share their personal experiences more willingly. However, confidentiality in the circle should still be emphasised by the teacher.

Another concern is that SGB members have access to information about learners that should be regarded as confidential. Section 18A of the School's Act refers to a code of conduct for the governing body. Section 18A(3) indicates that all members of the governing body should adhere to this code of conduct. In the case of non-adherence, the Head of the Department may, through due process, suspend or terminate a person's membership. FEDSAS (n.d.) provides its members with a proposed code of conduct, which emphasises the necessity of keeping the information obtained by SGB members confidential. This is especially important, since the SGB is supposed to assist in handling severe disciplinary matters pertaining to learners. SGB members sometimes gain intimate knowledge of the background of learners and their parents, who may be summoned to appear at a disciplinary hearing. Also, the school social worker could be expected to provide the disciplinary committee with information that could support them in their decision making. The amount of information shared also creates an ethical dilemma for the social worker. Although SGB members are supposed to keep all information confidential, in accordance with FEDSAS's code of conduct and the Protection of Personal Information Act 4 of 2013, sections 34 and 35 (RSA, 2013), it still does not resolve the ethical dilemma on the sharing of confidential information. This paper proposes that written permission to share information should be obtained from the learner and, where applicable, from the parents.

## Interdisciplinary collaboration

Collaboration between the teacher and the school social worker is essential in the endeavour to provide quality education to learners. This collaboration in the school environment should take place with the standard of the best interest of the child kept in mind (Organization of African Unity, 1990; RSA, 2012; UN, 1989) and to ensure care and concern for children's wellbeing.

The importance of proper ethical conduct by educators and the effective collaboration among the various disciplines in the education environment are seen in the following example. In a consultation, a school social worker mentioned to me an incident of a learner telling a teacher that she was assaulted at home. The teacher did not report this to the social worker. When the social worker was eventually made aware of this through other avenues, she confronted the teacher. The teacher's reason for not reporting this to the social worker was that she did not want to testify as the first reporter, should the case go to court. As a result of the delay in reporting the incident, the case had become "cold", since the assault occurred some time before, making it all the more difficult to find evidence of the assault, and all the more easy for the perpetrator to get away with it. In addition, no steps were taken to prevent the further assault of the learner. In this instance, the teacher was more worried about her own convenience than being guided by the best interest of the learner.

Incidents such as these place the social worker in the unenviable position of having to confront a colleague on grounds of unethical conduct, namely the failure to take reasonable steps to ensure the safety of a learner (SACE, 2002:4). In fact, according to the Children's Act section 110(1-3), the teacher in the above example can be criminally charged because she did not report the case as is expected of educators. The teacher's failure to report the assault should be reported to the school management, who has to take appropriate action. Reporting a colleague, however, could impact negatively on relationships between the school social worker and other teachers, which, in turn, could hinder effective service delivery.

Another challenge is the fact that school social workers are a relatively new commodity in schools, and principals and teachers are not always sure what their roles and tasks are. This could lead to the undermining of the status and authority of the school social worker. Sections 6.1 and 6.2 of the code of conduct for educators prohibit educators from undermining the status and authority of colleagues, and urge them to respect the responsibilities assigned to colleagues (SACE, 2002:5). If social workers are not allowed to perform their professional duties with integrity and competence, the smooth running of the school could be undermined, especially when it comes to dealing with vulnerable learners and the acting-out behaviour associated with their dire circumstances (Louw & Louw, 2014:236-245).

This paper proposes that the school management and staff be made aware of the roles and tasks of social workers. Problems with other members of the educational team should be resolved through appropriate organisational channels (SACSSP, 2005:34). The opposite is also true. Social workers have ethical responsibilities towards their colleagues. In the education environment they should treat their colleagues with respect, be loyal and not criticise them when this is not warranted. They should also work with their colleagues in a spirit of cooperation in order to provide a professional service to clients (SACSSP, 2005:32-33).

## Criticism and disputes involving colleagues

The Employment of Educators Act 78 of 1998, section 17(1)(b-d), determines that an educator must be dismissed if found guilty of sexual assault on a learner, having a sexual relationship with a learner, or a serious assault on a learner with the intention to cause grievous bodily harm (RSA, 2011b). According to Snyman (2014:447), assault is defined as: any unlawful and intentional act or omission

- which results in another person's bodily integrity being directly or indirectly impaired, or
- which inspires a belief in another person that such impairment of her bodily integrity is imminent.

Reyneke (2018a:133) is of the opinion that the severity of the act against the body of a child does not play any role in determining whether there is indeed a case of assault. She mentions that assault has a clear physical element and “the slightest contact with a complainant’s body can constitute assault if the required intent can be proven”. In the view of section 17(1)(d) of the Employment of Educators Act, hitting a child with a plastic pipe all over his body would be seen as seriously assaulting a learner, but not when hitting a child with a ruler on the hand. However, as Reyneke (2018a:133) explains, the latter behaviour still constitutes assault; the same goes for pinching, pushing, slapping and even removing a cap from the head of a learner.

Adding to the argument, section 1 of the Children’s Act refers to abuse as:

- assaulting a child or inflicting any other form of deliberate injury to a child;
- sexually abusing a child or allowing a child to be sexually abused;
- bullying by another child;
- a labour practice that exploits a child; or
- exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally.

Social workers are supposed to protect learners and will thus have to report abusive behaviour to the authorities in the interest of social justice. Examples of abusive behaviour are bullying by another learner, abuse by a parent or caregiver, and mistreatment or assault by an educator. This means that, if a teacher administers corporal punishment or shouts at learners, and the social worker is of the opinion that this may harm the learners psychologically or emotionally, the matter should be taken up with the teacher and/or reported to the school management. The principal, as the line manager of the teacher, should be the first to be informed of the matter and deal with the situation.

It is clear from the above that a social worker’s search for social justice and show of care and concern for learners could create resentment among teachers who might view her attempts as criticism of their teaching methods. This could lead to disputes and conflict and, in turn, directly or indirectly harm learners. Teachers might even lose their jobs because of the intervention of the social worker. The ethical issue created by such a dispute is the need for the protection of the child, on the one hand, and the protection of a colleague, on the other.

As mentioned previously, social workers are expected to respect their colleagues, be loyal to them and refrain from unwarranted negative criticism towards them. They are further expected to work together with colleagues, also those from other professions, towards ensuring the wellbeing of clients (SACSSP, 2005:32-33). From a personal perspective, it might thus be difficult to report an educator who unlawfully administers corporal punishment (SASA, section 10) or uses harmful psychological methods to discipline learners. Strictly speaking, this behaviour is prohibited by law and not in the best interest of the affected learner, and has to be dealt with.

## **Supervision**

According to Van Sittert and Wilson (2018:7), one of the challenges that school social workers face in inclusive education is that, in some provinces, they do not receive any supervision and no general support from the DBE. This can severely impair their competence. The SGBs also appoint social workers, but their salaries are usually low, resulting in the appointment of inexperienced people. This is problematic, because the demands of school social work without the supervision of a senior social worker in the field are extremely high for inexperienced professionals – with incompetence and ineffective service delivery the result.

Evidently, educational supervision, together with CPD, is needed to identify and overcome the gaps in professional knowledge and skills (Jacques, 2019:196). Supervision will also ensure that clients are protected from harm (SACSSP, 2005:13). The problem is that school social workers are usually supervised by the principal or a colleague from another profession such as a psychologist or occupational therapist (Kruger, 2019). However competent these professionals might be, they do not

have relevant social work experience and will not be able to provide the appropriate supervision. In fact, social workers themselves are not allowed to provide supervision in a field in which they are not competent (SACSSP, 2005:13). The same principle should apply to principals and other professionals, especially when it comes to social work interventions. I do, however, acknowledge the fact that the principal is the line manager of the social worker and has to supervise the social worker in administrative and other matters relating to the functioning of the school.

According to the SACSSP (2005:13), when there are no recognized standards or practices in an emerging practice, such as school social work, the social worker should be conscientious and take the appropriate steps to ensure competence. This could be done through their own research, attending CPD workshops and ensuring the availability of consultation and supervision. This paper thus proposes that, in the case of social workers appointed by SGBs, supervision services be brought in from elsewhere, or the social workers working in this environment at least do peer group supervision to improve competence.

### **Referral for services outside of the school**

In cases of suspected neglect and/or abuse, principals are sometimes reluctant to refer learners to outside organisations for services (FSSSSG, 2019), which, unfortunately, indicates a lack of care and concern for the learners' wellbeing. It is unlawful not to report child abuse to the Department of Social Development or a child protection organisation (Children's Act, section 110). There could be various reasons why educators do not report children in need of care and protection to the authorities, for example, as mentioned earlier, reluctance to testify in court. Another reason might be fear of damaging the image of the school, or protecting the perpetrator, who may be a "respected person" in the school environment. Schools should show integrity and seek justice for learners by ensuring that the necessary processes are followed.

### **Permission from parents**

Another issue that can create ethical problems for school social workers is permission for counselling. Should parents give permission for interventions by the social worker or can the social worker proceed with interventions without the knowledge and/or permission of parents? It seems that legislation is silent on this issue. The Constitution and some sections of the Children's Act, however, provide some guidelines.

Section 28(1)d of the Constitution determines that children should "be protected from maltreatment, neglect, abuse or degradation". The Children's Act defines the different forms of abuse that a child has to be protected from in section 1(1)(a-e). If a social worker is of the opinion that a child is suffering any form of abuse, she has to report the matter to an organisation with statutory powers (section 110(2)). The social worker will not need the permission of the parent to engage with this child in order to obtain more information, since the parent may be the perpetrator. If it is clear that the parent is not the perpetrator, the parent has to be made aware of the matter.

When it comes to permission for therapeutic interventions, the guidelines are somewhat vague as well. As mentioned previously, children have a right to social services (Constitution, section 28(1)(c)), their rights must be respected and protected (Children's Act, section 6(2)(a)) and the best interests of the child must be paramount (section 7). These provisions are interpreted to mean that a parent cannot object to counselling if a learner is in need of social services, and the social worker should take the responsibility to provide the service. Section 6(3) of the Children's Act, on the other hand, provides that "the child's family must be given the opportunity to express their views in any matter concerning the child". Parents thus have a right to know that their child is receiving counselling and to agree or disagree with this. Keeping such information from parents does not show integrity on the part of the social worker.

But what if children do not want their parents to know they are receiving counselling? The standard of the best interest of the child may provide some guidance on this issue. The nature of the personal

relationship between the child and the parents needs to be considered (Children's Act, section 7(1)(a)), the parents' attitude towards the child, their parental responsibilities and rights towards the child (section 7(1)(b)(i-ii)) and their capacity to provide for the needs of the child, including emotional and intellectual needs (section 7(1)(c)). Another factor that needs to be considered is the child's characteristics (section (7(1)(g)), which include developmental stage, age and background. It can be argued that, if a child older than 12 years can give consent for medical treatment and surgery (Children's Act, section 129(2-3)) and, regardless of her age, can give consent for an abortion, according to the Choice on Termination of Pregnancy Act 92 of 1961, section 5(2) (RSA, 1996b), parents, especially of older children, do not have to give permission for counselling.

## RECOMMENDATIONS

Against this background, the study makes a number of recommendations.

- The legal obligations of school social workers can be summarised as providing child protection services; upholding children's rights; ensuring that all educators are fit to work with children; and ensuring that the standard of the best interests of children is implemented in schools (see table 2).
- School principals and SGBs should be made aware of the expectations set for social workers by the SACSSP code of conduct. School social workers should also familiarise themselves with the SACE code of conduct.
- The guiding ethical values and principles should be used to guide and inform social work services in schools. This, as well as a proper knowledge of legal and policy documents pertaining to services to children, can also provide clarity in ethical decision making.
- School management and staff should be made aware of the roles and tasks of social workers.
- When social workers are appointed by SGBs, supervision services should be brought in from elsewhere to ensure competent professionals. These supervisors should also support the principal in evaluating the services provided by the social worker.
- More social workers should be employed in schools to achieve the millennium goals and ensure the protection of learners. This will also secure their constitutional right to social services.

## CONCLUSION

This article has discussed the legal and ethical obligations of school social workers. Since school social work in South Africa is still evolving, it is essential for all entities in the school environment to be aware of the legal and ethical obligations of the social worker. Social workers should also ensure that their behaviour towards colleagues and clients is ethical. The codes of ethical conduct of the SACSSP and SACE provide guidelines for ethical conduct, as do some legal and policy documents. Some ethical issues that may arise during service delivery were explained and discussed. Finally, it was shown how legal requirements and guiding ethical values and principles could be used to determine ethical conduct.

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