



Attachment D – Submissions template

Public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation

The Australian Health Practitioner Regulation Agency (Ahpra) and the National Boards are inviting stakeholders to have their say as part of our review of the *Criminal history registration standard* (the criminal history standard). There are 19 specific questions we'd like you to consider below (with an additional question 20 most relevant for jurisdictional stakeholders). All questions are optional, and you are welcome to respond to any you find relevant, or that you have a view on.

Your feedback will help us to understand what changes should be made to the criminal history standard and will provide information to improve our other work.

Please email your submission to AhpraConsultation@ahpra.gov.au

The submission deadline is close of business **14 September 2023**

How do we use the information you provide?

The survey is voluntary. All survey information collected will be treated confidentially and anonymously. Data collected will only be used for the purposes described above.

We may publish data from this survey in all internal documents and any published reports. When we do this, we ensure that any personal or identifiable information is removed.

We do not share your personal information associated with our surveys with any party outside of Ahpra except as required by law.

The information you provide will be handled in accordance with [Ahpra's privacy policy](#).

If you have any questions, you can contact AhpraConsultation@ahpra.gov.au or telephone us on **1300 419 495**.

Publication of submissions

We publish submissions at our discretion. We generally [publish submissions on our website](#) to encourage discussion and inform the community and stakeholders about consultation responses. Please let us know if you do not want your submission published.

We will not publish on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

We can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. A request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or if you want us to treat all or part of it as confidential.

Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is expressly requested.

Australian Health Practitioner Regulation Agency
National Boards
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Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

Initial questions
<i>To help us better understand your situation and the context of your feedback please provide us with some details about you. These details will not be published in any summary of the collated feedback from this consultation.</i>
Question A Are you completing this submission on behalf of an organisation or as an individual?
Your answer: <input checked="" type="checkbox"/> Organisation Name of organisation: Office of the Health Ombudsman Contact email: [REDACTED] <input type="checkbox"/> Myself Name: Click or tap here to enter text. Contact email: Click or tap here to enter text.
Question B If you are completing this submission as an individual, are you: <input type="checkbox"/> A registered health practitioner? Profession: Click or tap here to enter text. <input type="checkbox"/> A member of the public? <input type="checkbox"/> Other: Click or tap here to enter text.
Question C Would you like your submission to be published? <input checked="" type="checkbox"/> Yes, publish my submission with my name/organisation name <input type="checkbox"/> Yes, publish my submission without my name/ organisation name <input type="checkbox"/> No – do not publish my submission

Focus area one – The Criminal history registration standard

Question 1

The *Criminal history registration standard* (**Attachment A**) outlines the things decision-makers need to balance when deciding whether someone with a criminal history should be or stay registered such as the relevance of the offence to practice, the time elapsed and any positive actions taken by the individual since the offence or alleged offence. All decisions are aimed at ensuring only registered health practitioners who are safe and suitable people are registered to practise in the health profession.

Do you think the criminal history standard gets this balance right?

If you think the *Criminal history registration standard* does not get this balance right, what do you think should change to fix this?

Your answer:

Yes, the key factors being considered are comprehensive.

However, Ahpra and the Boards should also consider mentioning in the standard that certain types of criminal offences are fundamentally inconsistent with the values and behaviours expected of registered health practitioners and persons convicted of such offences may be indefinitely precluded from obtaining or regaining registration.

It is crucial that the public has confidence in individuals registered as health practitioners under the National Law. When a registered health practitioner is convicted of serious offences, it risks eroding public confidence in the entire profession and can have adverse effects on healthcare choices in the community. Preventing individuals from registering promotes and sustains the community's trust in the profession.

Question 2

Do you think the information in the current *Criminal history registration standard* is appropriate when deciding if an applicant or registered health practitioner's criminal history is relevant to their practice? If not, what would you change?

Your answer:

Yes, it is appropriate. However, the standard should also outline certain offences that are incompatible with registration.

Question 3

Do you think the information in the current *Criminal history registration standard* is clear about how decisions on whether an applicant or registered health practitioner's criminal history is relevant to their practice are made? If you think it is not clear, what aspects need further explanation?

Your answer:

Yes

Question 4

Is there anything you think should be removed from the current *Criminal history registration standard*? If so, what do you think should be removed?

Your answer:

No.

Question 5

Is there anything you think is missing from the 10 factors outlined in the current *Criminal history registration standard*? If so, what do you think should be added?

Your answer:

No – all factors are relevant and appropriate when considering whether a practitioner should be afforded registration.

Question 6

Is there anything else you would like to tell us about the *Criminal history registration standard*?

Your answer:

No

Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner's criminal history

Question 7

Do you support Ahpra and National Boards publishing information to explain more about the factors in the *Criminal history registration standard* and how decision-makers might consider them when making decisions? Please refer to the example in **Attachment B**. If not, please explain why?

Your answer:

Yes, transparency in how Ahpra and the National Boards consider criminal history is critical for the public to understand and for persons applying for or renewing their registration. It is also important that students receive education on registration requirements including the criminal history registration standard.

Question 8

Is the information in **Attachment B** enough information about how decisions are made about practitioners or applicants with a criminal history? If not, what is missing?

Your answer:

Yes, this is a comprehensive suite of considerations and details what is and is not given weight in the decision-making of the Boards.

Question 9

Is there anything else you would like to tell us about the information set out in **Attachment B**?

Your answer:

No

Question 10

Thinking about the examples of categories of offences in **Attachment C**, do you think this is a good way to approach decision-making about applicants and registered health practitioners with criminal history? If you think this is a good approach, please explain why. If you do not agree with this approach, please explain why not.

Your answer:

The OHO is supportive of the approach outlined in Attachment C.

The way this operates in Queensland is: Queensland Police Service (QPS), through an agreement with Ahpra and the Office of the Health Ombudsman (OHO), notifies the OHO anytime a registered practitioner is charged or convicted of certain criminal offences. These offences align closely with those outlined in Attachment C.

The OHO has an information sharing agreement with QPS and a position embedded within the QPS, known as the Health Ombudsman Liaison Officer (HOLO), which undertakes real-time monitoring of registered health practitioners who:

- **are subject to police investigations**
- OR**
- **have been charged with, or convicted of, a crime.**

The QPS does not monitor practitioners who are not currently registered. However, if the OHO has reason to believe that a person (i.e. a practitioner who is not currently registered) charged with or convicted of an offence worked as a health service provider the OHO can request QPS information on the person from the HOLO.

Question 11

Do you think there are some offences that should stop anyone practising as a registered health practitioner, regardless of the circumstances of the offence, the time since the offence, and any remorse, rehabilitation, or other actions the individual has taken since the time of the offence? Please provide a brief explanation of your answer. If you answered yes, please explain what you think the offences are.

Your answer:

Subject to principles of natural justice, the OHO is supportive of identifying offences that ought to preclude a person from holding registration, on the basis that they are fundamentally inconsistent with the inherent requirements and responsibilities of registered health practitioners.

It is crucial for the public to have confidence, trust and faith in individuals registered as health practitioners under the National Law. When a registered health practitioner is convicted of specific serious offences, it risks eroding public confidence in the entire profession and can have adverse effects on healthcare choices in the community. Preventing individuals from registering promotes and sustains the community's trust in the profession.

The OHO agrees with the offences in Category A outlined in Attachment C and has not identified any other offences which would be suitable to be placed into this category.

Question 12

Is there anything else you would like to tell us about the possible approach to categorising offences set out in Attachment C?

Your answer:

No, the OHO is supportive of this approach.

Focus area three – Publishing more information about decisions that are made about serious misconduct by registered health practitioners

Question 13

Were you aware that disciplinary decisions by tribunals about registered practitioners were published to Ahpra and National Board websites and are linked to an individual practitioner's listing on the public register?

Your answer:

Yes.

Question 14

Do you think decisions made to return a practitioner to practice after their registration has been cancelled or suspended (reinstatement decisions) for serious misconduct should be published where the law allows? Please explain your answer.

Your answer:

Yes. Transparency.
Question 15 <p>Is there anything else you would like to tell us about the approach to publishing information about registered health practitioners with a history of serious misconduct?</p>
<p>Your answer:</p> <p>Whilst disciplinary outcomes are listed on a registered practitioner's entry on the national register, there is no direct link to relevant tribunal decisions. Instead, judicial decisions are published on a separate page on the Ahpra website.</p> <p>In the spirit of openness and transparency, it would be helpful if judicial decisions concerning an individual practitioner was linked to the practitioner's record on the National Register (subject of course to any non-publication orders). This would help the public to make informed decisions about their healthcare.</p>

<p>Focus area four – Support for people who experience professional misconduct by a registered health practitioner</p>
Question 16 <p>What do you think Ahpra and National Boards can do to support individuals involved in the regulatory process who are affected by sexual misconduct by a registered health practitioner? (For examples, see paragraph 47 of the consultation paper.)</p>
<p>Your answer:</p> <p>The OHO is supportive of the initiatives by Ahpra and the Boards regarding the Notifier Support Service and improving the cultural safety of processes for Aboriginal and Torres Strait Islander notifiers.</p>
Question 17 <p>Is there anything else you would like to tell us about how we can support individuals affected by a registered health practitioner's professional misconduct?</p>
<p>Your answer:</p> <p>Ensure notifiers have been provided with the range of options with how they can seek support. In cases where criminal conduct is identified and the notifier wishes to make a criminal complaint, support them with this process by warm transfer with the police in the relevant jurisdiction.</p> <p>It is known that survivors of sexual abuse often delay reporting their experiences. This needs to be considered as part of any decision into how Ahpra, the Board and health complaints entities deal with such matters.</p> <p>The OHO notes the improvements outlined in Ahpra and the Boards' Blueprint supports the expansion of the notifier support service for victims and witnesses of sexual misconduct. In order to respond appropriately to victims of sexual misconduct, it is recommended that Ahpra, the Boards and health complaints entities each undertake mandatory training in trauma-informed care and practice.</p>

Focus area five – Related work under the blueprint for reform, including research about professional misconduct
Question 18 Are the areas of research outlined appropriate?
Your answer: Yes, a better understanding in the areas of identified will support Ahpra's blueprint for reform.
Question 19 Are there any other areas of research that could help inform the review? If so, what areas would you suggest?
Your answer: No
Additional question <i>This question is most relevant to jurisdictional stakeholders:</i>
Question 20 Are there opportunities to improve how Ahpra and relevant bodies in each jurisdiction share data about criminal conduct to help strengthen public safety
Your answer: <p>The OHO is committed to taking a significant proactive and collaborative approach to addressing the issues of serious risk and maintaining public confidence associated with registered practitioners who are subject to serious criminal charges and timely notification when a registered practitioner is charged with or convicted of an offence constituting a relevant event.</p> <p>In Queensland, the Queensland Police Service (QPS), through an agreement with the Australian Health Practitioner Regulation Agency (Ahpra) and the Office of the Health Ombudsman (OHO), notifies the OHO when registered practitioners are charged/convicted of criminal offences in certain circumstances and provide certain information. The OHO has an information sharing agreement with QPS and a position embedded within the QPS, known as the Health Ombudsman Liaison Officer (HOLO) which undertakes real-time monitoring for registered health practitioners subject to investigation, charged or convicted with criminal offences.</p> <p>The provision of this information contributes to the objectives of the national registration and accreditation scheme to provide for the protection of public by ensuring that only health practitioners who are suitably trained and qualified to practice in a competent and ethical manner are registered. The main principle for administering the Act is that the health and safety of the public are paramount. The provision of this information by QPS to the OHO supports the Health Ombudsman and the OHO in administering the Act in accordance with the main principle. The provision of information by QPS to the OHO further assists in maintaining public confidence in the management of complaints and other matters relating to the provision of health services.</p> <p>There are no provisions within the Health Ombudsman Act 2013 (Qld), which require the QPS to provide this information relating to registered health practitioners. QPS share this information with OHO and Ahpra under s10.2L of the Police Service Administration Act 1990 (Qld), (PSAA</p>

Act) as an approved agency and in accordance with the Privacy Act 2009 (Qld) and Information Privacy Principles 8-11.

It is the OHO's understanding that such a pro-active approach to sharing information regarding criminal offences is not duplicated to this extent in other States and Territories.

To further strengthen this in Queensland, OHO recommends that a section is included in the Health Ombudsman Act 2013 to place an obligation on the police commissioner to notify the OHO of registered practitioners who are charged with or convicted of an offence that constitutes a 'relevant event' under section 130 of the Health Practitioner Regulation National Law (Queensland) (National Law) and provide the following information:

- Court brief/occurrence allegation summary
- Bench charge sheet
- Criminal history

There are similar provisions within the Public Sector Act 2022 (Qld), Education (Queensland College of Teachers) Act 2005 (Qld) and the Working with Children (Risk management Screening) Act 2000 (Qld). The proposed amendments will assist in OHO and QPS working together to protect the health and safety of the public by ensuring OHO and Ahpra are always made aware when a registered health practitioner is charged with a criminal offence with constitutes a relevant event under the National Law. OHO will work with Queensland Health and QPS to develop a policy position for this proposed amendment for consideration by Government in the future.