



[criminalhistoryconsult@ahpra.gov.au](mailto:criminalhistoryconsult@ahpra.gov.au)

Australian Health Practitioner Regulation Agency (AHPRA)  
Consultation on international criminal history checking

options for refining international criminal history checks used by the in  
assessing applications for registration for the 14 health professions regulated  
under the Health Practitioner Regulation National Law

HSU National

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**National Office**

Suite 111 Trades Hall, 4 Goulburn Street, Sydney New South Wales 2000, PO Box 20349, World Square NSW 2002.  
Telephone: (02) 8203 6066, Facsimile: (02) 8203 6060, [www.hsu.net.au](http://www.hsu.net.au), Email: [hsu@hsu.net.au](mailto:hsu@hsu.net.au) ABN 68 243 768 561

## Introduction

The Health Service Union (HSU) welcomes the opportunity to provide Australian Health Practitioner Regulation Agency (AHPRA) with our views relating to international criminal history checks.

The HSU is a national union representing a diverse range of health professionals and workers in the health and community service sectors. HSU members work in aged care, disability services, community health, mental health, private practices and hospitals. Members are health professionals, paramedics, scientists, aged care workers, nurses, technicians, personal care and support workers, clerical and administrative staff, disability support workers, managers, doctors, medical librarians and support staff. HSU members are covered by each of the fourteen National Boards.

The HSU represents the interests of members in the workforce to improve member outcomes and contribute to the ongoing improvement of health and community care policy, professional standing of our members, and services and facilities for clients.

## HSU Comments

We offer the following comments and hope that they add value to AHPRA's consultations.

Noting that the National Law defines 'criminal history' as:

- (a) *every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;*
- (b) *every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;*
- (c) *every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.*

We agree, there is a need for the legislation to:

- protect the public
- minimise the risk of fraud
- avoid unnecessary delays to application processing times, and
- not imposing unreasonable burdens on overseas applicants

However, we are of the view that this part of the legislation is intrusive and may cause an unnecessary burden on the applicant and the authority providing the criminal history check, particularly when the offence may have no bearing on the applicant's ability to practice.

In short, our preferred option is Option 3. That is, AHPRA obtains clearance/information from jurisdictions outside Australia when processing application. We think that AHPRA should be developing cross jurisdictional ties with overseas regulators.

## Response to Option 5

The contracting out of international criminal history checks, as outlined in Option 5, warrants further consideration. We are not opposed to this option.

### **Is the proposed new approach the best option?**

The HSU believes Option 3 is the best option. However, Option 5 may provide for a more efficient criminal history check. The appropriate quality controls, privacy protocols, staffing skills and qualification would need to be determined to ensure that the checking procedure regime was equivalent to Australian checks.

### **Is the proposed approach clear?**

The approach described in the consultation paper provides interested parties with an overview of how the Option 5 is to work. The paper does not and cannot cover all possible scenarios. The possible arrangements around “spent” convictions, convictions of minors, require a more detailed explanation. More detail as to how National Boards will apply the criminal history registration standard in the consultation document would be helpful.

### **Are there any risks or issues about the proposed process that need more consideration?**

We suggest that there needs to be more consideration given to the situation of Australian registered practitioners who spend time working or holidaying outside of Australia. Further consideration should also be given to excluding convictions of a nature that do not impact on the appropriateness of a person’s ability to practice safely, within regulated frameworks while maintaining quality standards.

### **Should international criminal history checks be conducted for countries where applicants have spent three months or more, or six months or more?**

We believe the two proposed time frames, three months and six months, are not practical and the period should be 12 months. This would ensure that applicants who are holidaying are not caught up in this process. Consideration should be given to tying the timeframes to the timeframes placed upon renewing Australian based applicants and their working with children clearances.

## **Other comments**

While the legislation’s goals are to protect the public, the legislative requirements for checking of criminal history that does not impact on a Practitioner’s scope of practice is unnesseccary and burdensome. We reiterate our preference for Option 3.

Consideration should be given for provisional registration when overseas record checking takes longer than expected.

Whichever option prevails, each National Board must implement the same approach.

We look forward to the release of the consultation findings and the decision.