



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 These submissions will not be published on the website or elsewhere.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
GPO Box 9958 Melbourne VIC 3001 Ahpra.gov.au 1300 419 495

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: General Osteopathic Council (GOsC) 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
<p>Question 1</p> <p>The <i>Criminal history registration standard (Attachment A)</i> 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.</p> <p>Do you think the criminal history standard gets this balance right?</p> <p>If you think the <i>Criminal history registration standard</i> does not get this balance right, what do you think should change to fix this?</p>
<p>Your answer:</p> <p>It is important that regulators have appropriate processes and mechanisms in place to assess whether someone with a criminal history should be, or stay, registered as a healthcare professional having regard for the offence, the time elapsed and other mitigations.</p> <p>We consider that the criminal history standard strikes the right balance in providing guidance for decision-makers.</p> <p>The criminal history standard is consistent with the approach taken by the General Osteopathic Council, the UK Statutory healthcare regulator, which uses a Good Character Assessment Framework for making similar determinations.</p>
<p>Question 2</p> <p>Do you think the information in the current <i>Criminal history registration standard</i> 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?</p>
<p>Your answer:</p> <p>We consider that the information in the current Criminal history registration standard is appropriate.</p>
<p>Question 3</p> <p>Do you think the information in the current <i>Criminal history registration standard</i> 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?</p>
<p>Your answer:</p> <p>We agree that 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.</p>
<p>Question 4</p> <p>Is there anything you think should be removed from the current <i>Criminal history registration standard</i>? If so, what do you think should be removed?</p>
<p>Your answer:</p> <p>We do not think any information should be removed from the Criminal history registration standard.</p>

<p>Question 5</p> <p>Is there anything you think is missing from the 10 factors outlined in the current <i>Criminal history registration standard</i>? If so, what do you think should be added?</p>
<p>Your answer:</p> <p>While we think the 10 factors outlined in the current Criminal history registration standard are clear, we suggest Factor 1 might be enhanced further by the inclusion of one or two examples of offences that may be given more weight by the Board.</p> <p>We recognise that this type of information is provided in Attachment B; however, we were unclear whether this Attachment is published for the application/health practitioner or if this is for the Board use only. If the latter, we suggest a couple of examples included in Factor 1 would be an enhancement.</p>
<p>Question 6</p> <p>Is there anything else you would like to tell us about the <i>Criminal history registration standard</i>?</p>
<p>Your answer:</p> <p>No.</p>

Commented [BC1]: Nothing in addition to Q5

<p>Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner's criminal history</p>
<p>Question 7</p> <p>Do you support Ahpra and National Boards publishing information to explain more about the factors in the <i>Criminal history registration standard</i> and how decision-makers might consider them when making decisions? Please refer to the example in Attachment B. If not, please explain why?</p>
<p>Your answer:</p> <p>We consider that for the purposes of openness and transparency, both for the decision-maker(s) and the applicant/healthcare professional, it is good practice for such information to be published and we would support Ahpra and the National Boards in this approach.</p>
<p>Question 8</p> <p>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?</p>
<p>Your answer:</p> <p>We believe that the information provided is proportionate and we have not identified any information which may be missing.</p>
<p>Question 9</p> <p>Is there anything else you would like to tell us about the information set out in Attachment B?</p>
<p>Your answer:</p> <p>No.</p>
<p>Question 10</p> <p>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.</p>
<p>Your answer:</p> <p>We agree with the categorization of offences in Attachment C as it is useful to group different types of convictions separately depending on their severity. We feel such an approach would enable decision-makers to consider what questions/evidence might be appropriate depending on the categorization of offence.</p>
<p>Question 11</p> <p>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.</p>
<p>Your answer:</p> <p>When considering the seriousness of the conviction, finding, conduct or behaviour in question, the GOsC Good Character Assessment Framework sets out the following factors which will, where present, be regarded automatically as serious and referred to the GOsC Registrar. While this does not mean</p>

these offences would automatically stop anyone from practicing as a registered healthcare professional, there would need to be significant evidence provided for the Registrar to grant registration.

The offences which are automatically regarded as serious and will be referred to the Registrar include:

Dishonesty, fraud, deceit or misrepresentation
Drug or alcohol dependency
Violence or intentional or deliberate or reckless disregard of human life
Sexualised behaviour as defined in Clear sexual boundaries between healthcare professionals and patients; responsibilities of healthcare professionals published by the CHRE in January 2008
Sexual acts with children
Abuse of trust or other inappropriate behaviour with vulnerable persons ¹
Breach of confidentiality
Trafficking, diversion or illegal manufacture of any medicines (including controlled drugs) or medicinal products
Threats to public health, safety or welfare
Unlawful discrimination, harassment or victimisation, contrary to the requirements of the Equality Act 2010
Blatant disregard for the law or the system of registration
Any other behaviour which is incompatible with the Osteopathic Practice Standards

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.

¹ Vulnerable persons are to be regarded as persons under 18; or adults who are to be regarded as vulnerable within the meaning of section 59 of the Safeguarding Vulnerable Groups Act 2006.

<p>Focus area three – Publishing more information about decisions that are made about serious misconduct by registered health practitioners</p>
<p>Question 13</p> <p>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?</p>
<p>Your answer:</p> <p>We were aware that the decisions taken by tribunals about registered practitioners were published as this is consistent with the approach taken by the independent GOSc Fitness to Practise panels.</p>
<p>Question 14</p> <p>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.</p>
<p>Your answer:</p> <p>Yes, as long as the decisions published are in accordance with regulations or organizational publication policies.</p>
<p>Question 15</p> <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>No.</p>

Focus area four – Support for people who experience professional misconduct by a registered health practitioner

Question 16

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.)

Your answer:

For any individual who is subject to a fitness to practice complaint (osteopath, complainant or witness), the GOSc provides access to an independent support service run by Victim Support. This approach recognizes that fitness to practice processes are difficult and challenging experiences for all participants and offers a 24/7 support service.

This service does not differentiate between the type of fitness to practice complaints received. Therefore, this service is available for serious sexual misconduct cases through to lapses in professional indemnity insurance.

We would also suggest that there is an important need to train those individuals who receive concerns about professional conduct so, when in conversations with those involved, they are able to not only use appropriate language and tone, but to have been trained in techniques which support their own wellbeing and mental health.

Question 17

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?

Your answer:

As above.

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: -
Question 19 Are there any other areas of research that could help inform the review? If so, what areas would you suggest?
Your answer -
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: -